September 27, 2019

BIR RULING NO. 541-19

Republic Act No. 10071; Revenue
Regulations 2-98; BIR Ruling No. 606-12

Marites S. Castillo
Provincial Accountant
Office of the Provincial Accountant
Capitol Site, Batangas City

Madame :

This refers to your letter dated September 14, 2017 duly indorsed by Revenue Region No. 9A-CaBaMiRo, Sto. Tomas, Batangas, requesting for clarification on the withholding of taxes for Regional, Provincial and City Prosecutors against their respective local government allowances.

In reply, please be informed that the term "compensation" means all remuneration for services performed by an employee for his employer under an employer-employee relationship, unless specifically excluded. Salaries, wages, emoluments and honoraria, allowances, commissions and other income of a similar nature constitute compensation income which are subject to income tax. [1]

It should be noted, however, that paragraph 9, Section 16 of Republic Act No. 10071 AN ACT STRENGTHENING AND RATIONALIZING THE NATIONAL PROSECUTION SERVICE also known as "Prosecution Service Act of 2010," provides, *viz.*:

> "Subject to Section 20 hereof, the salaries and allowances of regional, provincial and city prosecutors and their assistants, and the members of the prosecution staff, including the prosecution attorneys, shall be paid entirely out of national funds and included in the annual appropriations of the DOJ: Provided, however, That this provision is without prejudice to the grant of allowances to the above-mentioned prosecutors by their respective local governments in amounts not exceeding fifty percent (50%) of their basic salaries; Provided, further, That the whole of the allowances or portion thereof, whether granted by the national or local government shall be exempt from the income tax."

Accordingly, the honorarium given by the local government unit to prosecutors in the form of allowance in amounts not exceeding fifty percent (50%) of the basic salaries is exempt from income tax and consequently from the withholding tax imposed under

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Section 2.78.1 (A) of Revenue Regulations 2-98, as amended. On the other hand, the amount in excess of 50% of the basic salaries shall constitute compensation income 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,

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

Footnotes

1. Section 2.78.1 (A) of Revenue Regulations 2-98, as amended.

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