May 23, 2018

BIR RULING NO. 956-18

Section 79, Tax Code; BIR Ruling No. DA-630-99

Ms. Eleanor J. Red
Chief, Accounting Division
Lung Center of the Philippines
Quezon Avenue Extension
Quezon City 1100

Gentlemen :

This refers to your letter dated November 8, 2017 requesting for clarification on whether terminal pay of optional retirees or those who have not yet reached the compulsory retirement age of 65 years old is not subject to withholding tax.

In reply, please be informed that this Office had occasion to rule in BIR Ruling No. DA-630-99 dated November 9, 1999, as follows:

> *"x x x The terminal leave pay received by a government official or employee is not part of his gross salary or income but a retirement benefit which is not subject to income tax and consequently to the withholding tax on wages prescribed by Section 79, Chapter XIII, Title II of the Tax Code of 1997 and as implemented by Revenue Regulations No. 6-82, as amended. The rationale behind the employee's entitlement to an exemption from withholding (income) tax on his terminal leave pay is that the Government recognizes that for most public servants, retirement pay is always less than generous if not meager and scrimpy. A modest nest egg which the senior citizen may look forward to is thus avoided. Terminal leave payments are given not only at the same time but also for the same policy considerations governing retirement benefits." (Jesus N. Borromeo vs. The Hon. Civil Service Commission, et al., G.R. No. 96032, 31 July 1991).*

IN VIEW OF THE FOREGOING, the terminal leave pay received by a government official or employee who availed of the optional retirement not being part of the gross salary or income of a government official or employee but a retirement benefit, is exempt from the withholding tax.

Please be guided accordingly.

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Very truly yours,

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

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