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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

January 6, 2015

REVENUE MEMORANDUM CIRCULAR NO. 6-2015

SUBJECT: Publishing the Full Text of Executive Order No. 173 Dated October 31, 2014, Entitled "Reduction and Condonation of Real Property Taxes and Interest/Penalties Assessed on the Power Generation Facilities of Independent Power Producers Under Build-Operate-Transfer Contracts with Government-Owned and/or -Controlled Corporations"

TO : All Internal Revenue Officials, Employees and Others Concerned

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For the information and guidance of all concerned, quoted hereunder is the full text of Executive Order No. 173 dated October 31, 2014:

"MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 173

REDUCTION AND CONDONATION OF REAL PROPERTY TAXES AND INTEREST/PENALTIES ASSESSED ON THE POWER GENERATION FACILITIES OF INDEPENDENT POWER PRODUCERS UNDER BUILD-OPERATE-TRANSFER CONTRACTS WITH GOVERNMENT-OWNED AND/OR -CONTROLLED CORPORATIONS

WHEREAS, under Section 234 of Republic Act No. 7160 (Local Government Code of 1991), Government-Owned and/or –Controlled Corporations (GOCCs) engaged in the generation and transmission of electricity enjoy a number of exemptions/privileges with respect to real property taxes, including an assessment level of 10% on all its lands, buildings, machineries and other improvements (Sections 216 and 218), as well as an exemption for all machinery and equipment that are actually, directly and exclusively used in the generation and transmission of electric power and machinery and equipment used for pollution control and environmental protection;

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WHEREAS, various Local Government Units (LGUs) have taken the position that Independent Power Producers (IPPs) operating within their territories which are not GOCCs are not entitled to the exemptions/privileges of GOCCs with respect to real property taxes on their property, machinery and equipment used in the generation and distribution of electric power, and have threatened enforcement action against the IPPs, including the levy and sale at public auction of the affected properties;

WHEREAS, the payment of said real property taxes by the affected IPPs, some of which obligation have been contractually assumed by the GOCCs and carries the full faith of the National Government, threatens the financial stability of the GOCCs, the government's fiscal consolidation efforts, and the stability of energy prices;

WHEREAS, the forcible collection of the subject real property taxes by the LGUs concerned will trigger massive direct liabilities on the part of National Power Corporation/Power Sector Assets and Liabilities Management Corporation and other affected GOCCs, may increase the cost of electricity, and may trigger further cross-defaults and significant economic losses across all sectors;

WHEREAS, under Section 277 of Republic Act No. 7160, "the President of the Philippines may, when public interest so requires, condone or reduce the real property tax and interest for any year in any province or city or a municipality within the Metropolitan Manila area"; and

WHEREAS, Article VII, Section 17 of the Philippine Constitution provides that the President shall have control of all the executive departments, bureaus, and offices.

NOW, THEREFORE, I, BENIGNO S. AQUINO III, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. Reduction and Condonation. All liabilities for real property tax on property, machinery and equipment (including any special levies accruing to the Special Education Fund) actually and directly used by IPPs for the production of electricity under Build-Operate-Transfer contracts (whether denominated Power Purchase Agreements, Energy Conversion Agreements or other contractual agreements) with GOCCs, assessed by LGUs and other entities authorized to impose real property tax, for all years up to 2014, are hereby reduced to an amount equivalent to the tax due if computed based on an assessment level of fifteen percent (15%) of the fair market value of said property, machinery and equipment depreciated at the rate of two percent (2%) per annum, less any amounts already paid by the IPPs. All fines, penalties and interests on such

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deficiency real property tax liabilities are also hereby condoned and the concerned IPPs are relieved from payment thereof.

SECTION 2. Compliance by All Government Entities. All concerned departments, agencies and instrumentalities of the government, including GOCCs and LGUs, are hereby ordered to strictly comply with this Executive Order.

SECTION 3. Repealing Clause. All orders, issuances, rules and regulations or parts thereof which are inconsistent with the provisions of this Order are hereby repealed, amended or modified accordingly.

SECTION 4. Separability Clause. If any provision of this Order is declared invalid or unconstitutional, the other provisions unaffected shall remain valid and subsisting.

SECTION 5. Effectivity Clause. This Order shall take effect immediately upon its publication in a newspaper of general circulation.

DONE, in the City of Manila, this 31st day of October, in the year of Our Lord, Two Thousand and Fourteen.

By the President:

(Sgd) **PAQUITO N. OCHOA, JR.**
Executive Secretary"

All concerned are hereby enjoined to be guided accordingly and give this Circular a wide publicity as possible.

KIM S. JACINTO - HENARES
Commissioner of Internal Revenue

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