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

January 31, 2018

REVENUE MEMORANDUM CIRCULAR NO. 10-2018

SUBJECT: Clarifying the Time of Withholding and Remittance of Taxes Withheld by Withholding Agents including National Government Agencies and Instrumentalities, Local Government Units and Government Owned and Controlled Corporations provided under Sec. 4 of Revenue Regulation (RR) No. 12-2001.

TO : All Internal Revenue Officers and Others Concerned

This circular is issued to clarify the time of withholding and remittance of taxes withheld by withholding agents including national government agencies and instrumentalities, local government units and government owned and controlled corporations in view of the conflict between the provision of Section 2.57.4 of BIR Revenue Regulation (RR) No. 2-98 as amended by Section 4 of RR 12-2001 vis-a-vis the guidelines and procedure provided under the Government Accounting Manual (GAM).

Section 4 of RR No. 12-2001, amending Section 2.57.4 of RR No. 2-98 provides the following:

> "SECTION 4. Time of Withholding. – Section 2.57.4 of RR 2-98, is hereby amended to read as follows:
>
> Section 2.57.4 Time of withholding. – The obligation of the payor to deduct and withhold the tax under Section 2.57 of these Regulations arises at the time an income payment is paid or payable, or their income payment is accrued or recorded as an expense or asset, whichever is applicable, in the payor's books, whichever comes first. The term "payable" refers to the date the obligation becomes due, demandable or legally enforceable.
>
> Provided, however, that where income is not yet paid or payable but the same has been recorded as an expense or asset, whichever is applicable, in the payor's books, the obligation to withhold shall arise in the last month of return period in which the same is claimed as an expense or amortized for tax purposes. x x x"

On the other hand, the GAM which prescribes uniform accounting procedures in government financial procedures provides the following:

"During the construction period, all expenses incurred in relation to the construction of the PPE shall be taken up in the books as Construction in Progress (CIP) with the appropriate asset classification. As soon as the construction is completed, the "Construction in Progress" account shall be reclassified to the proper asset account. Likewise, all expenses such as interest, license fees, etc., during the construction period shall be capitalized."

The seeming conflict between the BIR Revenue Regulation and the GAM occurred as a result of the illustrative example of the accounting entries in the GAM itself whereby "Due to BIR" accounts were recognized only upon payment of the accounts payable to the income payee.

Accordingly, and pursuant to the power of the Commissioner of Internal Revenue to interpret tax laws and to decide tax cases provided under Section 4 of the 1997 National Internal Revenue Code, as amended, it is hereby clarified that the obligation to withhold arises at the time an income payment is paid or payable, or the income payment is accrued or recorded as expense or asset, whichever is applicable, in the payor's books, ***whichever comes first***. Stated otherwise, *the obligation to withhold taxes already arises when an expense or asset is already recorded whether or not the same has been paid, pursuant to RR No. 12-2001.*

In the case of government projects, the obligation to withhold arises at the time that the government agency books construction of PPE as Construction in Progress with the appropriate asset classification since what RR No. 12-2001 mandates is "whichever comes first".

All internal revenue officers and others concerned are strictly enjoined to implement the provisions of this Circular.

CAESAR R. DULAY
Commissioner of Internal Revenue

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