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

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**REVENUE MEMORANDUM CIRCULAR NO. 120-2020**

**SUBJECT** : **Further Clarifications on the Retirement Benefits Exempt from Income Tax Pursuant to Republic Act No. 11494, or the Bayanihan to Recover as One Act, as Implemented Under Revenue Regulations (RR) No. 29-2020**

**TO** : **All Internal Revenue Officers and Others Concerned**

This Circular is issued to clarify further the exemption from income tax of the retirement benefits received by employees of private firms from June 5, 2020 to December 31, 2020, particularly on the following questions:

**Q1. Employee A, fifty (50) years of age and with eight (8) years of service in Company B retired on June 15, 2020 and received the retirement benefits on August 31, 2020. Company B has a registered retirement plan with the BIR and the retirement benefits received by said employee is based on that plan. Are the retirement benefits received exempt from income tax?**

**A1.** Yes, although the employee did not meet one of the conditions, particularly on the length of service under the approved employees' retirement benefits plan, the received retirement benefits is considered exempt from income tax since the same is based on the registered retirement plan with the BIR, and the employee retired and received the retirement benefits during the covered period of June 5 to December 31, 2020 under the Republic Act No. 11494 or the Bayanihan to Recover as One Act.

**Q2. If Employee A was re-employed in October, 2021 with Company C, a subsidiary of Company B, will the said employee be liable to the income tax on the retirement benefits received from Company B?**

**A2.** No, since the re-employment occurred beyond the twelve-month period reckoned from the date of retirement.

**Q3. Using the same facts in the preceding scenario, what if Employee A was re-employed in Company C on April 1, 2021, will he be required to pay the income tax due on the retirement benefits received?**

**A3.** Yes, since the re-employment is within the succeeding twelve-month period after receipt of the retirement benefits and the new employer is related to Company B.

**Q4. Employee B, 40 years old retired from Company ABC prior to June 5, 2020 but only received on October 20, 2020 the retirement benefits computed based on the company's retirement plan registered with the BIR, will the amount received as retirement benefits exempt from income tax?**

**A4.** No. The employee retired prior to June 5, 2020.

**Q5. Another employee of Company ABC, Employee C, 48 years old retired on October 15, 2020. If his retirement benefits will be received on January 15, 2021, will such retirement benefits be exempt from income tax?**

**A5.** No. Since the retirement benefits were received beyond the covered period pursuant to RA 11494.

**Q6. Employee D, 45 years of age with fifteen (15) years of service in Company E received retirement benefits on July 31, 2020. Company E has no BIR-registered retirement plan. Are the retirement benefits subject to income tax?**

**A6.** Yes, it is subject to income tax and thus, Company E shall withhold and remit the income tax due for employee D.

**Q7. What is a duly registered retirement plan as contemplated under RR No. 29-2020?**

**A7.** The retirement plan is duly registered with the BIR when it has been issued a Certificate of Qualification as a Reasonable Employees' Retirement Benefit Plan. The said certificate is issued upon satisfaction of the conditions and prescribed requirements.

**Q8. CDF Corporation has a BIR-registered Employees' Retirement Benefit Plan but during the pandemic, it was management's decision to retrench business operations and as result, it offered its employees Retirement Package which is over and above the said registered retirement benefits plan. If employees will avail of the company's offer, are the entire amount received upon retirement be exempt from the income tax?**

**A8.** No. Only the amount received covered by the registered retirement plan will be exempt from income tax, provided that the retirement and the receipt of the retirement benefits are within the covered period. The amount in excess of what is within the retirement plan which was offered by the company to entice employees to retire shall be taxable.

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**Q9. Employee X, 60 years old and had been in Company Y for more than eight (8) years, received retirement benefits pursuant to Republic Act (RA) No. 7641, or the Retirement Pay Law, amending Article 287 of the Labor Code of the Philippines, in the absence of a registered retirement plan by Company Y. Are the retirement benefits received by Employee X subject to income tax?**

**A9**. No. Even though Company Y has no registered retirement plan with the BIR, the said retirement benefits are tax exempt as provided under Sec. 32 (B) (6) of the Tax Code, as amended, which stated that retirement benefits received under RA No. 7641, are not to be included in the gross income of the recipient. The said law provided that, "In the absence of a retirement plan or agreement providing for retirement benefits of employees in the establishment, an employee upon reaching the age of sixty (60) years or more, but not beyond sixty-five (65) years which is hereby declared the compulsory

retirement age, who has served at least five (5) years in the said establishment, may retire xxx." Since Employee X is already 60 years old and has rendered not less than five years of service, the retirement benefits received are tax exempt.

**Q10. From the preceding question, if Employee X was re-employed within the twelve-month period from retirement in Company Z, an affiliate of Company Y, will the retirement benefits be subject to income tax? If re-employed in Company R, a company not related to Company Y, will the retirement benefits be subject to income tax?**

**A10**. The answer to both questions is "No". This is because the retirement benefits received are provided under R.A. 7641, which is one of the exclusions from gross income stated in Section 32 (B) (6) of the Tax Code, as amended. Thus, it is not subject to income tax.

**Q11. RR No. 29-2020 requires the submission of the list of recipients of retirement benefits and other income payments exempt from income tax as provided in the said RR, paid by employers from June 5 to December 31, 2020. Are employees included in the said list still to be included in the Annual Alphabetical List of Employees required to be submitted on or before January 31 of each year?**

**A11**. Yes. Aside from the inclusion of the employees in the list of recipients of income payments exempt from income tax, they shall still be included since the Annual Alphabetical List shall reflect the income received by the said employees for the year, inclusive of retirement benefits and other income payments.

All are enjoined to give this Circular a wide publicity as possible.

**CAESAR R. DULAY**
**Commissioner of Internal Revenue**

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