REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE
RECORDS MGT. DIVISION
4:35 P.M.
FEB 19 2016
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Date: 19 February 2016

REVENUE MEMORANDUM CIRCULAR No. 19-2016

Subject: Clarifying the Tax Treatment of the Monthly Provisional Allowance and Officer's Allowance Given to Military Personnel/Officers under the Recently Signed Executive Order, entitled *"Modifying the Salary Schedule for Civilian Government Personnel and Authorizing the Grant of Additional Benefits for Both Civilian and Military and Uniformed Personnel"* in Relation to Section 3 of Republic Act (RA) No. 9040 Exempting from Income Tax Certain Allowances and Benefits Granted to the Members of the Armed Forces of the Philippines (AFP).

To : All Internal Revenue Officers and Others Concerned.

On 22 March 2001, Congress enacted into law Republic Act (RA) No. 9040, entitled *"An Act Exempting from Tax Certain Allowances and Benefits Granted to the Members of the Armed Forces of the Philippines"*. Section 3 thereof exempts from income tax certain pay and allowances granted to AFP Personnel, thus:

> ***"SEC. 3. Exclusions from Gross Income. — The following pay and allowances of AFP personnel shall not be included in gross income and shall be exempt from taxation under Title II of Republic Act No. 8424, otherwise known as the "Tax Reform Act of 1997".***
>
> ***(a) Longevity pay,***
>
> ***(b) Mandatory allowances. namely (1) Cost of Living Allowance; (2) Personnel Economic Relief Allowance; and (3) Hazardous Allowance;***
>
> ***(c) Collateral Pay, namely (1) Specialist Pay; (2) Combat Pay; (3) Flying Pay; (4) Air Mechanic's Pay; (5) Sea Duty Pay; (6) Hazardous Duty Pay; (7) Instructor's Duty Pay. (8) Parachutist's Pay; and (9) Hardship Pay; and***
>
> ***(d) Collateral Allowances, namely (1) Special Clothing Allowance; (2) Cold Winter's Clothing Allowance and Cold Weather Clothing Maintenance Allowance; (3) Winter Clothing Allowance; (4) Initial Enlistment and Reenlistment Allowance; and (5) Laundry Allowance."***

On 19 February 2016, the President signed an Executive Order (EO), entitled *"Modifying the Salary Schedule for Civilian Government Personnel and Authorizing the Grant of Additional Benefits for Both Civilian and Military and Uniformed Personnel.* Sections 7 and 9 of said EO grant Monthly Provisional Allowance and Monthly Officer's Allowance to military personnel/officers as an interim measure until such time that the Base Pay Schedule is modified and rationalized.

A reading of Section 3 of RA 9040 would readily show that the Monthly Provisional Allowance and Monthly Officer's Allowance given to military personnel/officers pursuant to the recently signed EO are not among those enumerated as exempt from income tax under the law. It is settled that where the law enumerates the subject or condition upon which it applies, it is to be construed as excluding from its effects all those not expressly mentioned. *Expressio unius est exclusio alterius.* Anything that is not included in the enumeration is excluded therefrom and a meaning that does not appear nor is intended or reflected in the very language of the statute cannot be placed therein.[1] In the same vein, tax exemptions should be granted only by clear and unequivocal provision of law on the basis of language too plain to be mistaken. They cannot be extended by mere implication or inference.[2]

Accordingly, it is hereby clarified that - not being included under the enumeration of pay and allowances exempt from income tax under Section 3 of RA 9040 - the Monthly Provisional Allowance and Monthly Officer's Allowance given to military personnel/officers under the recently signed EO are subject to income tax.

All revenue officers and employees are hereby enjoined to give this Circular as wide a publicity as possible.

This Circular shall take effect immediately.

BUREAU OF INTERNAL REVENUE
RECORDS MGT. DIVISION
4:25 P.M.
FEB 19 2016
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KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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1 San Pablo Manufacturing Corp. v. CIR, G.R. No. 147749, June 22, 2006

2 NPC v. Province of Isabela, G.R. No. 165827, June 16, 2006