REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

February 14, 2012

REVENUE MEMORANDUM CIRCULAR NO. 23-2012

SUBJECT : Reiteration of the Responsibilities of the Officials and Employees of Government Offices for the Withholding of Applicable Taxes on Certain Income Payments and the Imposition of Penalties for Non-Compliance Thereof

TO : All Government Withholding Agents, Internal Revenue Officials, Employees and Others Concerned

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This circular is issued to remind all government withholding agents, particularly their accountable officers, of their responsibility for the correct withholding of taxes and reiterate the penalties that will be imposed for violations thereof.

A. ACCOUNTABLE GOVERNMENT OFFICIALS/EMPLOYEES

Item II(1) of Revenue Memorandum Order (RMO) No. 8-2003 provides that the following government officials/employees are personally charged with the duty to correctly withhold taxes and timely remit the same:

"a. **Local Government Units (LGUs)*:***

a.1 Provinces	-	Governor, Provincial Treasurer and Provincial Accountant
a.2 Cities	-	Mayor, City Treasurer and City Accountant
a.3 Municipalities	-	Mayor, Municipal Treasurer and Municipal Accountant
a.4 Barangays	-	Barangay Chairman and Barangay Treasurer

a. **National Government Agencies (NGAs)** - Heads of Offices (officials holding the highest position) and Chief Accountant/s or other person/s holding similar positions in departments, bureaus, agencies, instrumentalities officially designated as such by the head of office.

b. **Government Owned or Controlled Corporations (GOCCs)** – Heads of Offices (officials holding highest position) and Chief Accountant/s or other

person/s holding similar positions officially designated as such by the head of office.

c. **Other Government Offices** – Heads of Offices (officials holding the highest position) and Chief Accountant/s or other person/s holding similar positions officially designated as such by the head of office.

d. **Government Offices with Decentralized Accounting System and/or Branches/Regional Offices/District Offices Registered with their Respective Revenue District Offices (RDOs)** – Heads of such Offices/Regional or District Offices/Other Offices (officials holding the highest position) and Chief Accountant/s or other persons holding similar positions officially designated as such by the head of office. [Example: a) In case of BIR Regional Offices, it shall be the Regional Director and Chief, Finance Division and b) in the case of DepED, it shall be the Regional Director and Chief, Budget and Finance Division]".

B. RESPONSIBLITIES OF THE GOVERNMENT OFFICIALS/EMPLOYEES AS WITHHOLDING AGENTS.

The aforesaid government officials/employees have the following duties and obligations as withholding agents:

1. ***To register the government office as withholding agent.*** The government officials/employees should ensure that the government office is registered as withholding agent with the BIR through their respective RDOs in conformity with the requirements under Section 236(A) of the Tax Code of 1997 and the pertinent provisions of Revenue Regulations (RR) No. 11-2008.

2. ***To require employees to submit*** the duly accomplished Application for Registration (*BIR Form No. 1902*) for newly-hired employees and the Certificate of Update of Exemption and of Employer's and Employee's Information (*BIR Form No. 2305*) for employees with change/s in their exemption for the calendar year, within ten (10) days upon commencement of employment or after the change in exemption pursuant to Section 2.79.1 of RR 2-98, as amended, and ***to submit*** the same within thirty (30) days from receipt to the concerned RDO.

3. ***To withhold the correct amount of tax.*** Based on the office's registration and where applicable, the government withholding agent should withhold tax on compensation (WTC) [*based on the exemptions in the Application for Registration (BIR Form No. 1902) or the Certificate of Update of Exemption and of Employer's and Employee's Information (BIR Form No. 2305) submitted by the employee*], on income payments subject to expanded withholding tax (EWT) and final withholding tax (FWT) and on government money payment to VAT registered taxpayer (GVAT) and Non-VAT registered taxpayers subject to percentage tax (GPT) pursuant to Sections 80(A), 57 and 114, all of the Tax Code.

4. **To *remit on time taxes withheld***. The responsible officials and employees, as withholding agents, should see to it that taxes withheld are accordingly remitted on or before their due dates using the prescribed monthly/quarterly withholding tax remittance returns, together with other attachments, where applicable, as follows:

Kind of WT	***BIR Form***	***Period Covered***	***Due Date– (Manual Filers)***	***Due Date (EFPS Filers)***
WTC	BIR Form No. 1601-C	January to November	10th day of the following month	15th day of the following month
	BIR Form No. 1601-C	December	January 15 of the following year	January 20 of the following year
EWT	BIR Form No. 1601-E (with the Monthly Alphalist of Payees (MAP)	January to November	10th day of the following month	15th day of the following month
	BIR Form No. 1601-E (with the Monthly Alphalist of Payees (MAP)	December	January 15 of the following year	January 20 of the following year
FWT	BIR Form No. 1601-F [(with the Monthly Alphalist of Payees (MAP)]	January to November	10th day of the following month	15th day of the following month
	BIR Form No. 1601-F [(with the Monthly Alphalist of Payees (MAP)]	December	January 15 of the following year	January 20 of the following year
GVAT	BIR Form No. 1600 [(with the Alphalist of Payees (MAP)]	January to December	10th day of the following month	10th day of the following month

GPT	BIR Form No. 1600 [with the Alphalist of Payees (MAP)]	January to December	10th day of the following month	10th day of the following month

5. ***To issue the corresponding certificates of taxes withheld.*** Certificates corresponding to the taxes withheld from the income payments should be issued by the government withholding agents to employees/payees on or before their due dates of issuance, whether the taxes withheld are creditable or not, as follows:

Kind of WT	***Certificate to be Issued***	***Time of Issuance***	***Legal Basis***
WTC	BIR Form No. 2316	On or before January 31 of the succeeding year or on the payment of the last salary if there is termination of employment before the close of the year	Section 83(A), Tax Code Section 2.83.1, RR 2-98
EWT	BIR Form No. 2307	20th day after the close of the taxable quarter employed by the payee in filing quarterly tax return/ Upon request of payee	Section 58 (B) Tax Code Section 2.58(B), RR 2-98
FWT	BIR Form No. 2306	January 31 of the following year/Upon request of the payee	Section 58(B), Tax Code Section 2.58(B), RR 2-98, as amended
GVAT	BIR Form No. 2306	10th day of the following month or upon request of the payee	Section 6, RR 4-2002 Section 4.114.3(h), RR 16-2005
GPT	BIR Form No. 2307	10th day of the following month or upon request of the payee	Section 7, RR 4-2002

6. ***To do the year-end adjustment.*** The government withholding agent shall compute for the year-end adjustment of all its employees, every December of

each year, and every time an employee will be separated from the employment for the particular separated employee, to ensure that taxes withheld from each employee is equivalent to his tax due. Deficiency in taxes withheld as against the tax due for the calendar year shall be deducted from the December salary while excess of taxes withheld over the tax due for the calendar year shall be refunded to the concerned employee not later than January 25 of the following year. In case of separation from employment before December, the refund shall be given to the separated employee upon payment of the last compensation during the year. Taxes refunded by the employer-government agency can be deducted from the remittable amount of taxes withheld in the current month in which the refund was made and in the succeeding months thereafter until the full amount refunded is fully recovered.

7. ***To timely file with the BIR, the annual information return and alphabetical lists of employees/payees, if applicable.*** The government officials/employees should ensure that the Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes (BIR Form No. 1604-CF) and the required Alphabetical Lists of Employees/Payees and Annual Information Return of Creditable Income taxes Withheld (Expanded)/Income Payments Exempt from Withholding Tax (BIR Form No. 1604-E) and the required Alphabetical List of Payees are filed with their respective RDOs on or before January 31 and March 1 of the following year, respectively. (***Note***: ***No annual return for withholding tax on GVAT and GPT***).

C. Applicable Penalties for Specific Violations

1. The following penalties (additions to the tax) are applicable to the following violations involving all types of withholding taxes:

VIOLATION	APPLICABLE/PENALTY ADDITIONS TO THE TAX	BASIS
1. Non-withholding of tax	a. Collection of the amount the withholding agent failed to withhold	Section 251, Tax Code
	b. 20% Interest	Section 249, Tax Code
2. Under-withholding of tax	a. Collection of the underwithheld tax	Section 251, Tax Code
	b. 20% Interest	Section 249, Tax Code

3. Non-remittance of tax withheld	a. Collection of the amount withheld but not remitted	Section 251, Tax Code
	b. 20% Interest	Section 249, Tax Code
4. Late remittance	a. 25% Surcharge	Section 248, Tax Code
	b. 20% Interest	Section 249, Tax Code
5. Failure to refund excess taxes withheld (WTC only)	a. Collection of excess tax not refunded	Section 252, Tax Code
	b. Failure to do the year-end adjustment	Section 275, Tax Code

D. Criminal Liabilities – Aside from the additions to the tax under Title X, Chapter I of the Tax Code as enumerated above, criminal liabilities shall likewise be imposed for the violations under the following provisions of the Code, as follows:

1. ***Section 255. Failure to File Return, Supply Correct and Accurate Information, Pay Tax, Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation.*** – Any person required under this Code or by rules and regulations promulgated thereunder to pay any tax, make a return, keep any record, or supply correct and accurate information, who willfully fails to pay such tax, make such return, keep such record, or supply such correct and accurate information, or withhold or remit taxes withheld or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than Ten thousand pesos (P10,000) and suffer imprisonment of not less than one (1) year but not more than ten (10) years.

   Any person who attempts to make it appear for any reason that he or another has in fact filed a return or statement, or actually files a return or statement and subsequently withdraws the same return or statement after securing the official receiving seal or stamp of receipt of an internal revenue office wherein the same was actually filed shall, upon conviction therefor, be punished by a fine of not less than Ten thousand pesos (P10,000) but not more than Twenty thousand pesos (P20,000) and suffer imprisonment of not less than one (1) year but not more than three (3) years.

2. ***Section 256. Penal Liability of Corporations.*** – Any corporation, association or general co-partnership liable for any of the acts or omissions penalized under this Code, in addition to the penalties imposed herein upon the responsible corporate officers, partners, or employees, shall, upon conviction

for each act or omission, be punished by a fine of not less than Fifty thousand pesos (P50,000) but nor more than One hundred thousand pesos (P100,000).

3. ***Section 272. Violation of Withholding Tax Provision.*** - Every officer or employee of the Government of the Republic of the Philippines or any of its agencies and instrumentalities, its political subdivisions, as well as government-owned or controlled corporations, including the Bangko Sentral ng Pilipinas (BSP), who, under the provisions of this Code or rules and regulations promulgated thereunder, is charged with the duty to deduct and withhold any internal revenue tax and to remit the same in accordance with the provisions of this Code and other laws is guilty of any offense herein below specified shall, upon conviction for each act or omission be punished by a fine of not less than Five thousand pesos (P5,000) but not more than Fifty thousand pesos (P50,000) or suffer imprisonment of not less than six (6) months and one (1) day but not more than two (2) years, or both.

   (a) Failing or causing the failure to deduct and withhold any internal revenue tax under any of the withholding tax laws and implementing rules and regulations;

   (b) Failing or causing the failure to remit taxes deducted and withheld within the time prescribed by law, and implementing rules and regulations; and

   (c) Failing or causing the failure to file return or statement within the time prescribed, or rendering or furnishing a false or fraudulent return or statement required under the withholding tax laws and rules and regulations.

4. ***Section 275. Violations of Other Provisions of this Code or Rules or Regulations in General.*** – Any person who violates any provision of this Code or any rule or regulations promulgated by the Department of Finance, for which no specific penalty is provided by law, shall, upon conviction for each act or omission, be punished by a fine of not more than One thousand pesos (P1,000) or suffer imprisonment of not more than six (6) months, or both.

In certain instances as provided under Revenue Memorandum Order (RMO) No. 19-2007, a compromise penalty in lieu of criminal liability under Item D above, may be imposed and collected.

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

(Original Signed)
KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

J-2