REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

May 16, 2017

REVENUE MEMORANDUM CIRCULAR NO. 45-2017

SUBJECT: Publishing the Full Text of Executive Order No. 19 Dated April 27, 2017, Entitled "REDUCTION AND CONDONATION OF REAL PROPERTY TAXES AND INTERESTS / PENALTIES ASSESSED ON THE POWER GENERATION FACILITIES OF INDEPENDENT POWER PRODUCERS UNDER BUILD-OPERATE TRANSFER CONTRACTS WITH GOVERNMENT-OWNED OR –CONTROLLED CORPORATIONS"

TO : All Internal Revenue Officials, Employees and Others Concerned

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For the information and guidance of all internal revenue officials, and others concerned, attached is the letter from Atty. Concepcion Zeny E. Ferrolino-Enad, Director III of Malacañang Records Office and the certified copy of Executive Order No. 19 dated April 27, 2017, entitled "Reduction and Condonation of Real Property Taxes and Interests / Penalties Assessed on the Power Generation Facilities of Independent Power Producers Under Build-Operate Transfer Contracts with Government-Owned or –Controlled Corporations".

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

CAESAR R. DULAY
Commissioner of Internal Revenue

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BUREAU OF INTERNAL REVENUE
RECORDS MGT. DIVISION
2:56 P.M.
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MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 19

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

WHEREAS, under Section 234 of Republic Act No. 7160 or the Local Government Code of 1991, Government-Owned 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, 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;

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, since a substantial part of said real property taxes being charged against the affected IPPs has been contractually assumed by the National Power Corporation, the Power Sector Assets and Liabilities Management Corporation and other GOCCs, the payment of such taxes will trigger massive direct liabilities on the part of such GOCCs, thereby threatening their financial stability, the government's fiscal consolidation efforts, the stability of energy prices, and worse, may even 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.

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NOW, THEREFORE, I, RODRIGO ROA DUTERTE, President of the Philippines, by virtue of the powers vested in me by the Constitution and existing laws, do hereby order:

SECTION 1. Reduction and Condonation. All liabilities for real property tax, including any special levies accruing to the Special Education Fund, for the years 2015 and 2016, on property, machinery and equipment actually and directly used by IPPs for the production of electricity under Build-Operate-Transfer and similar 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, 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 interests on such deficiency real property tax liabilities are also hereby condoned and the concerned IPPs are relieved from payment thereof.

SECTION 2. Application to Future Real Property Tax Liabilities. If any real property tax payments for 2015 and 2016 have been made by IPPs in excess of the reduced amount under Section 1 of this Order, such excess shall be applied to their real property tax for the succeeding years.

SECTION 3. Compliance by All Government Entities. All concerned departments, agencies and instrumentalities of the government, including relevant GOCCs and LGUs, are hereby ordered to strictly comply with this Executive Order.

SECTION 4. 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 5. Separability Clause. If any provision of this Order is declared invalid or unconstitutional, the other provisions unaffected shall remain valid and subsisting.

SECTION 6. Effectivity Clause. This Order shall take effect immediately upon its publication in a newspaper of general circulation.

DONE, in the City of Manila, this 27th day of April, in the year of Our Lord, Two Thousand and Seventeen.

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By the President:

SALVADOR C. MEDIALDEA
Executive Secretary

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Office of the President
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CERTIFIED COPY
ATTY. CONCEPCION ZENY E. FERROLINO-ENAD
DIRECTOR III