REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

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April 23, 2024

REVENUE MEMORANDUM CIRCULAR NO. 60-2024

SUBJECT : **Providing Clarifications and Guidance on Section 6 of Revenue Regulations No. 4-2024 on the Repeal of Section 34 (K) of the National Internal Revenue Code of 1997, as Amended**

TO : **All Internal Revenue Officials, Employees and Others Concerned**

This Circular is hereby issued to provide clarification and guidance on the amendments introduced by Republic Act No. 11976 otherwise known as the "Ease of Paying Taxes (EOPT) Act", particularly on the repeal of Section 34 (K) of the National Internal Revenue Code (Tax Code) of 1997, as amended. The amendment is implemented through Section 6 of Revenue Regulations No. 4-2024.

Quoted hereunder is the provision of Section 34 (K) of the Tax Code, as amended:

> *"Section 34 (K) – Additional Requirements for Deductibility of Certain Payments. – Any amount paid or payable which is otherwise deductible from, or taken into account in computing gross income or for which depreciation or amortization may be allowed under this Section, shall be allowed as a deduction only if it is shown that the tax required to be deducted and withheld therefrom has been has been paid to the Bureau of Internal Revenue in accordance with this Section, Section 58 and 81 of this Code."*

With the repeal of the above-quoted provision under the EOPT Act, a particular income payment where a tax is required to be withheld can now be allowed as deduction from the gross income, even if no tax was withheld, provided the same is necessary, ordinary and duly substantiated expense related to the registered business of the taxpayer.

Since the EOPT Act took effect on January 22, 2024, a question arose if the repeal of the said provision may be applied to all assessed cases and on-going audits covering taxable periods prior to the effectivity of EOPT Act.

In this regard, all concerned are hereby advised of the following policies and clarifications:

1. On all ongoing audit covering taxable period prior to January 1, 2024 – expenses subject to withholding tax shall be allowed as deductions from gross income by the Revenue Officers (RO) **only if** the corresponding tax required to be withheld have been paid, whether prior to audit or submission of the audit report to the Reviewing Office.

2. In a scenario where taxpayer failed to withhold the tax required to be withheld on expenses subject to withholding tax and the taxpayer did not pay the same prior to submission of the audit report to the reviewing office, the RO has to recommend for the issuance of assessment notice both on income and withholding tax. This is in line with the provisions of Revenue Regulations No. 6-2018.

3. On audit cases which are already submitted to the Reviewing Office

   a. Paid Case – same application stated under item 1 hereof;

   b. Assessed Case – apply the requirement of deductibility under the then Section 34 (K) of the Tax Code, thus, assessment on both income tax and withholding tax shall be issued.

For taxable year covering January 1, 2024 onwards, expenses/income payments subject to withholding tax shall be allowed as deductions from gross income for purposes of computing taxable income even if no tax was withheld, provided the other requirements for deductibility have been met. However, the taxpayer shall still be liable for the payment of the corresponding withholding tax due on said income payments.

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

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

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