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

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REVENUE MEMORANDUM CIRCULAR NO. 99-2018

SUBJECT : Clarifying Certain Issues Relative to the Provisions of Revenue Regulations (RR) No. 17-2011, as Amended, Implementing Republic Act (RA) No. 9505, Otherwise Known as the "Personal Equity and Retirement Account (PERA) Act of 2008".

TO : All Internal Revenue Officers and Others Concerned

SECTION 1. SCOPE. This circular is issued to clarify certain provisions of RR No. 17-2011, as amended, in relation to Revenue Memorandum Order (RMO) No. 42-2016 dated July 21, 2016 which establishes the guidelines and procedures in the implementation of RA No. 9505, otherwise known as the "Personal Equity and Retirement Account (PERA) Act of 2008".

SECTION 2. CLARIFICATORY QUESTIONS AND ANSWERS.

Q1. ***Is the Qualified Employer's Contribution to the employee's PERA subject to fringe benefit tax? To what extent shall it be exempt from tax?***

A1. No. The Qualified Employer's Contribution is not subject to fringe benefit tax since said Contribution does not form part of the employer's gross taxable income. (Section 7 (B) (1), RR No. 17-2011). The same holds true even if said Contribution is granted by way of a benefit or other form and regardless of whether said benefit is granted to all or only some of the employees.

Q2. ***Is the employer who contributes to the employee's PERA entitled to five percent (5%) tax credit?***

A2. No. Section 7 (B) of RR No. 17-2011, as amended, provides that the employer shall not be entitled to any five percent (5%) credit from its contribution to an employee's PERA. However, the employer can claim the actual amount of his/its Qualified Employer's Contribution as a deduction from his/its gross income to the extent of the employer's contribution that would complete the maximum allowable PERA contribution of an employee.

The example given in the same RR is as follows:

Employee AAA already made PERA contribution for the year amounting to P60,000. Employer XYZ Corp decided to contribute as well to its employee's PERA account and the employer's contribution for the same period amounted to also to P60,000. In this case the employer can only claim as deduction the amount of P40,000, that is only up to the extent needed to complete the maximum allowable PERA contribution.

Q3. ***What is the effect of early withdrawal by an employee of his PERA contribution on the Qualified Employer's Contribution?***

A3. There will be no effect on the part of the employer. It will not be required to add back or increase its gross income by the PERA contributions it made in favor of its employee who made an early withdrawal of his PERA contributions.

Q4. ***Can a PERA contributor change PERA Administrator for reasons other than the administrator's revocation of accreditation?***

A4. Yes. The transfer of PERA assets to another Qualified/Eligible PERA Investment Product and/or another Administrator is not limited to transfers due to the revocation of accreditation of the previous Administrator by the Bureau of Internal Revenue (BIR) or the concerned Regulatory Agency (i.e., Securities and Exchange Commission or Insurance Commission), and such transfer shall not be subject to Early Withdrawal Penalty as long as it is made within fifteen (15) calendar days from the withdrawal thereof. (RR No. 23-2018)

Q5. ***Are PERA Contributors still entitled to substituted filing of their income tax return?***

A5. Yes. PERA Contributors are not disqualified from substituted filing of their income tax returns by reason of PERA contributions that they or their respective employees made, provided that they meet the conditions set forth in Revenue Memorandum Circular (RMC) No. 1-2003 on Substituted Filing of Income Tax Returns of Qualified Pure Compensation Income Earners.

Q6. ***For purposes of opening a PERA account, does the BIR require submission of a tax identification number (TIN) and a Revenue District Office (RDO) Code of the Contributor's employer?***

A6. No, the BIR does not require submission of the TIN and RDO Code of the Contributor's employer for purposes of account opening. The Contributor, however, is required to have a TIN. (Section 2 (c), RR No. 7-2011)

Q7. ***How are the different PERA accounts of a PERA contributor treated? Are these accounts considered separate and distinct accounts or one aggregate account?***

A7. The different accounts of a PERA contributor are considered as one PERA accounts of the PERA contributor.

Q8. ***Are Overseas Filipinos (OFs) entitled to Tax Credit Certificates (TCCs)?***

A8. Yes. OFs are entitled to TCCs which they may use against any national internal revenue tax liabilities (excluding the Contributor's withholding tax liabilities as withholding agent).

Q9. ***What documents, other than the Overseas Employment Certificate (OEC) issued by the Philippine Overseas Employment Administration (POEA), may be submitted to show proof of continuing status as an OF?***

A9. For OF's, any official document showing that he will earn or has earned income in a foreign country in the year of PERA contribution may be submitted, such as the following:

- Current employment certificate from existing employer;
- Original copy/certified true copy of existing employment contract;

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- Valid employment identification card issued by employer abroad;
- Copy of work permit/visa or re-entry permit; or
- Sworn Certification made before a Philippine Consul.

Q10. ***Will OFs who do not avail or use their TCCs be subject to early withdrawal penalty in case of pre-termination of their PERA?***

A10. OFs who do not avail of their tax credit will not be penalized with the five percent (5%) early withdrawal penalty. However, the early withdrawal penalty of twenty percent (20%) will still apply.

Q11. ***How will an OF who ceases to be an OF in a given year, be classified and treated for PERA purposes?***

A11. A contributor whose OF status ceases in a given year shall be considered an OF up to the end of the calendar year.

Q12. ***Are PERA transactions subject to stock transaction tax?***

A12. Yes. The tax incentives of PERA transactions does not include exemption from stock transaction tax which is a percentage tax under Title V of the National Internal Revenue Code of 1997, as amended.

All concerned revenue officials and employees are hereby enjoined to give this circular as wide a publicity as possible.

CAESAR R. DULAY
Commissioner of Internal revenue

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