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

July 21, 2016

REVENUE MEMORANDUM ORDER NO. 42-2016

SUBJECT : PRESCRIBING THE GUIDELINES AND PROCEDURES IN THE IMPLEMENTATION OF REPUBLIC ACT NO. 9505, OTHERWISE KNOWN AS THE PERSONAL EQUITY AND RETIREMENT ACCOUNT (PERA) ACT OF 2008.

TO : ALL INTERNAL REVENUE OFFICIALS AND EMPLOYEES AND OTHERS CONCERNED

I. BACKGROUND

Republic Act No. 9505, otherwise known as the "Personal Equity and Retirement Account (PERA) Act of 2008", establishes the legal and regulatory framework of retirement plans for persons, comprised of voluntary personal savings and investments while providing various tax incentives and privileges.

Under the law, individuals are allowed to set up their own PERA which shall enjoy certain tax incentives. The Bureau issued Revenue Regulations (RR) No. 17-2011 on October 27, 2011 to clarify the implementation of the tax provisions of the PERA Act of 2008.

With the engines all set out for the proper implementation of the provisions of the PERA Act of 2008, many employers are expected to take this opportunity to become an agent in furthering the objective of the State to promote capital market development and savings mobilization. Employees, including self-employed individuals and Overseas Filipinos, can start planning their future by establishing their own PERA.

II. OBJECTIVES:

1. To set the guidelines and procedures for proper administrative reporting of PERA transactions involving contributions, income, withdrawals and/or terminations;

2. To provide the procedures that will serve as guide to the concerned offices in matters involving PERA-related transactions;

3. To prescribe simplified procedures and uniform formats for PERA-related forms and reports; and

4. To establish a system for coordinated monitoring of tax privileges and incentives granted to qualified PERA contributions.

III. GUIDELINES

1. The BIR's PERA Processing Office (i.e., the Audit Information, Tax Exemption and Incentives Division (AITEID) under the Assessment Service) shall accept only Applications for

Accreditation (BIR Form No. 1941) (**Annex "A"**) filed by pre-qualified PERA Administrator based on "Qualification Certificate" issued by the concerned Regulatory Authority (i.e., Bangko Sentral ng Pilipinas (BSP) or the Securities and Exchange Commission (SEC) or the Insurance Commission (IC);

2. Upon approval of the Application for Accreditation, the AITEID shall issue Certificate of Accreditation (BIR Form No. 2336) (**Annex "A-1"**) to the PERA Administrator, a copy of which shall be transmitted to the concerned Revenue District Offices (RDOs)/Offices under the Large Taxpayers Service (LTS) having jurisdiction over the PERA Administrator, for proper monitoring and to ensure that the PERA Administrator maintains a separate set of books of accounts to record all PERA contributions and related transactions (e.g., income earned by the PERA Assets, withdrawals, and/or terminations thereof);

3. The accreditation of a PERA Administrator shall be valid from the date of issuance of the Certificate of Accreditation until it is suspended or revoked for violation of any of the provisions of Republic Act (RA) 9505, or for any of the grounds stated under Section 17 thereof, as enumerated under Rule 4.D of the Rules and Regulations Implementing the PERA Act of 2008;

4. The PERA Administrator shall be designated by the Contributor to handle the administration of PERA established by the employee which, together with the contribution made by the employer, if any, shall not exceed the employee's qualified PERA contribution. The PERA Administrator shall ensure that contributions (i.e., employees and/or employer, self-employed, Overseas Filipinos, or in representation of such Overseas Filipinos) are under its exclusive administration through an on-line validation with the PERA Contributor's database to be established by the BSP as provided under Rule 4.A.4 of the Rules and Regulations Implementing the PERA Act of 2008;

5. Contributions to PERA can come from employees and/or their employers or self-employed individuals which shall not exceed Php100,000.00 per calendar year, or Php200,000.00 per calendar year if the contributor is an Overseas Filipino as defined in Rule 7 of the Rules and Regulations Implementing the PERA Act of 2008;

6. A Contributor may create and maintain a maximum of five (5) PERAs at any one time. However, each PERA shall be confined to only one category of PERA Investment Product. Thus, a Contributor can have five (5) PERAs and five (5) categories of PERA Investment Products;

7. An employee or self-employed qualified Contributor shall be entitled to a five percent (5%) tax credit of the aggregate qualified PERA contributions made in a calendar year which shall be allowed to be credited only against their income tax liabilities.

   An Overseas Filipino Contributor with taxable income in the Philippines shall be entitled to a five percent (5%) tax credit to be claimed against any internal revenue tax liabilities, excluding his/her withholding tax liabilities as a withholding agent. However, Overseas Filipino Contributor without taxable income in the Philippines shall also be entitled to a five percent (5%) tax credit but will eventually be forfeited in favor of the government.

Tax credits arising from PERA contributions can be used as payment for delinquent accounts but in no case be refundable or convertible into cash or transferrable to any other party.

A separate issuance will be released for the detailed procedure on the processing and utilization of tax credit;

8. A qualified employer's contribution to the employee's PERA shall not be entitled to 5% tax credit but can be claimed as a deduction from its gross income, but only to the extent of its contribution that would complete the maximum allowable PERA contribution under Rule 8 of the Rules and Regulations Implementing the PERA Act of 2008. The qualified contribution shall likewise be exempt from withholding tax on compensation and final withholding tax on fringe benefits;

9. In relation to item 8 above, the PERA Administrator shall file the following with the concerned RDOs/Offices under the LTS having jurisdiction over the same:

    a. Certification of Aggregate Amount of Qualified PERA Contribution (BIR Form No. 2338) **(Annex "E")** within forty five (45) days from the close of the calendar year; and

    b. Application for PERA-TCC (BIR Form No. 1942) (**Annex "D"**), within ninety (90) days from the end of the calendar year (for qualified Overseas Filipinos and self-employed Contributor);

10. An employee or self-employed or Overseas Filipino Contributor retains the prerogative to make investment decisions pertaining to his PERA, including contributions made by an employer in favor of an employee;

11. All incomes earned from the investments and re-investments of PERA assets in PERA Investment Products accredited by the concerned Regulatory Authority are not included in the maximum allowable PERA contribution;

12. All incomes earned from the investments and re-investments of PERA assets in PERA investment products accredited by the concerned Regulatory Authority shall be exempt from income taxes under Rule 11 of the Rules and Regulations Implementing the PERA Act of 2008, but subject to other taxes applicable to the investment income (e.g., Percentage Tax, Value Added Tax, Stock Transaction Tax and Documentary Stamp Tax);

13. The following are Qualified PERA Distributions (QPD) which shall be excluded from the gross income of the Contributor and shall not be subject to income tax nor to estate tax in the hands of the heirs or beneficiaries of the Contributor:

    a. QPD received by the Contributor after the Contributor and/or his/her employer has made qualified PERA contributions for at least five (5) years and the Contributor reaches the age of fifty-five (55);

b. QPD received by the heirs or beneficiaries of the Contributor upon the death of the latter regardless of his/her age and the number of his/her yearly contributions at the time of his/her death;

c. When the Contributor had an accident or illness-related hospitalization in excess of 30 days, provided that there is a notarized doctor's certificate attesting to the facts of the case;

d. When the Contributor becomes permanently totally disabled as defined under the Employees Compensation Law, Social Security Law, or Government Service Insurance System Law, provided that he/she has a certification from the concerned government agency; or

e. Immediate transfer of proceeds to another PERA Investment Product and/or another Administrator, who has been disaccredited either by the BIR or the concerned Regulatory Authority, within two (2) working days from withdrawal thereof;

14. The PERA Administrator shall submit, thru the AITEID e-mail, the quarterly and annual reports of PERA transactions (e.g., Qualified PERA Contributions, Incomes Earned by PERA Assets, Qualified PERA Distributions, Early Withdrawals or Terminations) made by Contributors under its administration within the prescribed deadline as indicated in Summary of Reports Required to be Submitted by the PERA Administrator (**Annex "B"**) of this memorandum order;

15. All the required reports summarized in **Annex "B"** hereof, shall be submitted to AITEID thru e-mail and receipt of the same shall likewise be acknowledged thru a reply e-mail;

16. The concerned RDOs/Offices under the LTS shall issue the following as the case may be:

    a. Certification of Entitlement to 5% Tax Credit for Employee-Contributor (BIR Form No. 2339) (**Annex "E-1"**) of his/her qualified PERA contributions for release to the PERA Administrator which/who will in turn transmit such certificate to the employer for purposes of automatically adjusting the withholding tax on employee's compensation income; or

    b. PERA Tax Credit Certificate (TCC) to be issued in the name of the qualified Overseas Filipino or self-employed Contributor for release to the PERA Administrator which/ who shall in turn give to the PERA Contributor the said TCC (BIR Form 2337) **Annex "D-1"**;

17. The concerned RDOs/Offices under the LTS having jurisdiction over the PERA Administrator may recommend, after due notice, hearing and verification, the disqualification, suspension, or revocation of accreditation of PERA Administrator under any of the grounds enumerated under Rule 4.D of the Rules and Regulations Implementing the PERA Act of 2008;

18. The concerned RDOs/Offices under the LTS having jurisdiction over the PERA Administrator shall validate the computed amount of penalties imposed on the Contributor on his/her early withdrawal or termination and to verify the attached proof

of payments of the said penalties based on the quarterly/annual report of early withdrawal or termination submitted by the PERA Administrator.

Taxes from all income earned from investments and reinvestments of PERA assets and utilized tax credits and the corresponding penalties imposed under the tax code shall be computed and deducted on the net proceeds of withdrawal or termination of PERA.

A separate issuance will be released by the BIR on the computation of penalties under the different possible scenarios;

19. All the concerned offices shall monitor the compliance of all PERA Administrators under their respective jurisdiction. All the undertakings of the concerned offices relative to this Order shall be monitored by the AITEID and shall be factored in the evaluation of their respective performance based on Key Performance Indicators (KPIs);

20. All the concerned Information Systems Group (ISG) Offices shall provide adequate support to AITEID and the concerned RDOs/Offices under the LTS to ensure the proper dissemination of data/information to the concerned offices and for the coordinated monitoring of the tax privileges and incentives granted under the PERA Act;

21. The Revised Schedule of Compromise Penalties under Revenue Memorandum Order No. 7-2015 shall be imposed for each and every case of non-submission or late submission of required reports during a taxable year by PERA Administrator. For this purpose, failure to supply any of the reports required shall constitute a single act of omission;

22. The PERA Administrator shall attest to the completeness and accuracy of the data/information contained in all the prescribed reports summarized in **Annex "B"** hereof. Failure to supply correct and accurate information shall be a ground for the invalidation of its accreditation and shall subject the PERA Administrator to the applicable criminal penalty under Sec 255 of the NIRC of 1997, as amended; and

23. All data pertaining to PERA transactions shall be considered strictly confidential and shall be utilized exclusively for internal revenue tax purposes. The heads of the concerned offices shall be responsible for all PERA data furnished/disseminated to their respective offices and the same shall not be divulged to any unauthorized personnel within and outside the Bureau. Any unauthorized disclosure by any revenue personnel shall be a ground for the imposition of administrative sanctions and filing of appropriate charges against the erring official or employee. Any information that will not require disclosure of the name of the Contributor is excluded from the prohibition, for regulatory purposes.

IV. PROCEDURES

A. The Audit Information Tax Exemption and Incentives Division (AITEID) shall:

1. Process Application for Accreditation as PERA Administrator (BIR Form No. 1941)

   1.1 Receive the duly accomplished Application for Accreditation as PERA Administrator (BIR Form No. 1941).

1.2 Ascertain the completeness of the submitted documents pursuant to Rule 4.A.3 of the Rules and Regulations Implementing the PERA Act of 2008:

1.2.1 Qualification Certificate issued by the concerned Regulatory Authority;
1.2.2 Tax Clearance for PERA Administrator (BIR Form No. 2342) (**Annex "A-3"**) issued by the Regional Director/Assistant Commissioner of LTS that the PERA Administrator is a regular filer and has no final and executory liability; and
1.2.3 Proof of payment of P500.00 Accreditation fee using BIR Form No. 0605.

1.3 Acknowledge receipt if documents are in order by stamping 'Received' on the three (3) copies of the application form to be distributed as follows:

Original	PERA Administrator - for approval /disapproval
Duplicate	AITEID - to be transmitted to concerned RDO/offices under the LTS and to be attached to the approved Certificate of Accreditation
Triplicate	AITEID (for office file)

1.4 Indicate the Application Number (AN) immediately upon receipt of the application and the complete supporting documents, on the appropriate space provided thereon. The AN shall contain the year of filing and shall be numbered sequentially following the order of receipt of the Application for Accreditation, illustrated as follows:

Office	Year	Accreditation No.
AITEID	2013	001

1.5 Maintain a record of all relevant information in the PERA System. The system shall contain the following information:

- Name and TIN of Applicant
- Date of Receipt of the application
- Application Number
- Registered Address – Main Office
- Regulatory Authority Issuing the Qualification Certificate

1.6 Approve/Disapprove the Application for Accreditation as indicated in Parts III and IV of Application for Accreditation as PERA Administrator (BIR Form No. 1941) (Annex "A"). Mark the appropriate box to indicate the approval/disapproval of the application and affix signature on the space provided therein, illustrated as follows:

Part III

17 Recommended for

☐ Approved
☐ Disapproval

by: _____

Signature over Printed Name of Processing Officer

Part IV

18 This Application for Accreditation is hereby:

☐ Approved
☐ Disapproved

Reason for disapproval

_____

Chief-Audit Information, Tax Exemption And Incentives Division

(Signature over Printed Name)

1.7 Prepare the Certificate of Accreditation (BIR Form No. 2336) (Annex "A-1") if the application has been approved, to be distributed as follows:

Original	PERA Administrator
Duplicate	AITEID - to be transmitted to concerned RDOs/ Offices under the LTS
Triplicate	AITEID (for office file)

1.8 Assign sequential Certificate of Accreditation Number (CAN) illustrated as follows:

Office	Year	Application No. (AN)	Regulatory Authority	Certificate of Accreditation No.(CAN)
AITEID	2013	001	BSP01	001

1.9 Release the original copy of the approved Application for Accreditation and the Certificate of Accreditation to the concerned PERA Administrator upon presentation of proper/valid identification cards or documents;

1.10 Send a notification letter to the applicant indicating the reason for disapproval if the Application for Accreditation is disapproved;

1.11 Transmit the Summary List of Approved Application for PERA Accreditation consisting of the name of the Administrator and the CAN (**Annex "A-2"**) and the corresponding Certificate of Accreditation (**Annex "A-1"**) to the concerned RDOs/Offices under LTS having jurisdiction over the PERA Administrator and to the Regulatory Authority that issued the Qualification Certificate.

2. Extract and, disseminate all pertinent data/information to/from the concerned RDOs/Office under LTS on a monthly/quarterly basis:

2.1 Access the BIR PERA Datawarehouse and fill up all the mandatory fields in accessing a particular report;
2.2 Download/Extract data/information and save in excel format;
2.3 Transmit the extracted data/information to concerned RDOs/Offices under the LTS thru their respective e-mails; and
2.4 Acknowledge receipt of the transmitted data/information thru e-mail facility.

B. The concerned Revenue District Offices (RDO)/ Offices under the Large Taxpayers Service (LTS) having jurisdiction over the PERA Administrator shall:

1. Receive from AITEID the following data/information/reports:

1.1 Summary List of Approved Application for PERA Accreditation (**Annex "A-2"**);
1.2 Duplicate copy of the Certificate of Accreditation (**Annex "A-1"**); and
1.3 The extracted data/information/report from the BIR PERA Datawarehouse on a monthly/ quarterly basis.

2. Maintain a record of the information contained in Annexes "**A-1" & "A-2**" , to wit:

a. Date of receipt of the list;
b. Name and TIN of the PERA Administrator;
c. Certificate of Accreditation Number (CAN);
d. Registered Address; and
e. Regulatory Authority that issued the Qualification Certificate.

3. Process the Application for PERA-TCC and issuance of PERA-TCC

3.1 Receive in duplicate the Application for PERA – Tax Credit Certificate (TCC) (BIR Form No. 1942) (**Annex "D")** for self-employed and Overseas Filipino Contributor(s)with complete supporting documents, distributed as follows:

Original	PERA Administrator (after approval/disapproval)
Duplicate	Concerned RDOs/Offices under LTS;

3.2 Verify the correctness of the information contained in the application such as the name, address and TIN of the PERA Administrator/Contributors and details of claims against the ITS records using the ITS/eTIS facilities. Request information from AITEID relative to the contributions and other related transactions such as withdrawals and termination, to verify the correctness of the information contained in Application for PERA-TCC. In case of any discrepancy, inform immediately in writing the concerned PERA Administrator of the findings;

3.3 Assign an AN per Contributor on the appropriate space provided in the Application for PERA-TCC. The AN shall indicate the year of filing and the numbering thereof shall be made sequentially following the order of receipt of the application, illustrated as follows:

RDO No.	Year	CAN	PERA TCC
RDO No.__	2013	001	001

3.4 Prepare PERA TCC (BIR Form No. 2337) (**Annex "D-1"**) to be issued in the name of the Qualified Overseas Filipino or Self-employed Contributor if the documents are in order, in two (2) copies to be distributed as follows:

Original	Qualified Overseas Filipino/Self-employed Contributor, whichever is applicable
Duplicate	Concerned RDOs/Offices under LTS

3.5 Release the approved PERA TCC (BIR Form No. 2337) (**Annex "D-1"**) to the Qualified Overseas Filipino/ Self-Employed Contributor thru the PERA Administrator and record all relevant information pertaining to the PERA-TCC

3.6 Prepare a Quarterly Report of issued PERA-TCCs as enumerated under **Annex "C"** using the format prescribed under **Annex "C.B-1"** and **Annex "C.B-2"** to be submitted to the AITEID for monitoring purposes on the 10th day after the end of every quarter.

4. Process and Issuance of the Certificate of Entitlement to 5% Tax Credit

4.1 Receive the duly accomplished Certification of Aggregate Amount of Qualified PERA Contribution (BIR Form No. 2338) (**Annex "E"**) for Employee-Contributors required to be submitted within forty-five (45) days from the end of the calendar year by the PERA Administrator in duplicate copies to be distributed as follows:

Original	Employer of the Employee-Contributor thru the PERA Administrator
Duplicate	Concerned RDOs/Offices under LTS file;

4.2 Verify the correctness of the information contained in Certification of Aggregate Amount of Qualified PERA Contribution (BIR Form No. 2338) by requesting information from AITEID relative to the contributions and other related transactions, such as withdrawals or terminations. In case of any discrepancy, inform immediately in writing the concerned PERA Administrator of the findings;

4.3 Prepare and approve the Certificate of Entitlement to 5% Tax Credit for Employee-Contributors (BIR Form No. 2339) (**Annex "E-1"**) based on the data certified by the PERA Administrator to be issued to the employer which shall serve as authority for the employer to automatically adjust the withholding tax on the employee's compensation income, in two (2) copies to be distributed as follows:

Original	Employer of the Employee-Contributor thru the PERA Administrator
Duplicate	Concerned RDOs/Offices under LTS file.

The Employer shall issue a "Certified True Copy (ies)" of the approved Certificate of Entitlement to 5% Tax Credit for Employee-Contributors to each listed employee(s).

4.4 Release the Certificate of Entitlement to 5% Tax Credit to the employer of the employee-contributor, thru the PERA Administrator; and

4.5 Prepare a Quarterly Report of Issued Certificates of Entitlement to 5% Tax Credit as enumerated under **Annex "C"** using the format prescribed under **Annex "C.E-1"** to be submitted to the AITEID for monitoring purposes on the 10th day after end of each and every quarter.

5. Computation of Penalties on the Early Withdrawal of PERA Contribution that does not fall within the circumstances enumerated under PERA Rule 14 of the Rules and Regulations Implementing the PERA Act of 2008

5.1 Evaluate the Quarterly/Annual Report on PERA Distribution and Early Withdrawal, listed in **Annex "B"** as Annex B.D-1[R], Annex B.D-2[R], Annex B.D-3[R], Annex B.E-1[R], Annex B.E-2[R] and Annex B.E-2[R];

5.2 Validate the Payment on the settlement of the tax and penalties of the early withdrawal on PERA distribution (BIR Form No. 0605);

5.3 Determine if the early withdrawal tax/penalty(ies) are not paid by the Contributor within the required timeframe which is on or before the 10th of the month of submission of the Annual Report on PERA Distributions and Early Withdrawals. Prepare a Reminder Letter addressed to the PERA Administrator stipulating that the said letter serves as the final warning for the settlement of the early withdrawal tax penalties with updated computation of penalties, non-settlement of which shall subject the Contributor and PERA Administrator to audit; and

5.4 Prepare a Summary List of Reports on Early Withdrawal of PERA Contribution submitted by the PERA Administrator including a column to determine whether or not the imposed penalties were already paid.

C. The ISG shall:

1. Set up and configure the network connectivity between BIR and BSP for the PERA System;
2. Provide an SFTP Server for the submission of quarterly and annual reports of PERA transactions required by the BIR;

3. Develop a PERA System that will automatically compute tax penalties (interest, surcharges) in case the Contributor, thru his PERA Administrator, settles the early withdrawal and provide AITEID access their BIR PERA Datawarehouse/ PERA System for the extraction of data/information/reports, that will be e-mailed to the concerned RDOs/offices under the LTS;
4. Monitor and maintain PERA Transactions stored at the BIR PERA Datawarehouse; and
5. Provide support to all technical issues logged in BIR Helpdesk relative to the PERA System.

VI. EFFECTIVITY

This Order shall take effect immediately.

(Original Signed)
CAESAR R. DULAY
Commissioner of Internal Revenue

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