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

Date: December 6, 2016

REVENUE MEMORANDUM ORDER NO. 66-2016

SUBJECT : Amending Pertinent Provisions of Revenue Memorandum Order (RMO) No. 26-2011, Prescribing the Guidelines in the Tax Treatment of Separation Benefits Received by Officials and Employees on Account of Their Separation from Employment Due to Death, Sickness or Other Physical Disability and the Issuance of Certificate of Tax Exemption from Income Tax and from the Withholding Tax.

TO : All Revenue Officials and Personnel and Others Concerned

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SECTION 1. Background

Revenue Memorandum Order (RMO) No. 26-2011, as amended by RMO 36-2011, transferred to the Revenue Regions/Large Taxpayers Service the processing of requests for rulings confirming that the amounts received by employee or by his heirs from the employer by reasons of **death**, **sickness** or **other physical disability** are exempt from income tax. The processing, however, of requests for tax exemption of separation benefits received by employees as a result of separation from employment due to **other causes** beyond the control of said employees has remained at the Law and Legislative Division in the National Office.

This Order is being issued to further amend RMO No. 26-2011 by devolving also to the Revenue District Office or appropriate Large Taxpayer (LT) Office where the employer is registered the processing of requests for tax exemption of separation benefits received by an official or employee as a consequence of separation from employment **due to other causes beyond the control of said official or employee**, such as, but not limited to, retrenchment, redundancy, installation of labor-saving devices and closure of business.

SECTION 2. Amendment. — Item II of RMO No. 26-2011 is hereby amended to read as follows:

II. DOCUMENTARY REQUIREMENTS

In order to facilitate the processing of requests for tax exemption of separation benefits received by officials/employees or his/her heirs as a result of their separation from employment due to death, sickness or other physical disability **or for any cause beyond the control of said officials or employees**, regardless of age and length of service, the following documents are required to be submitted to the Revenue District Office (RDO) or appropriate Large Taxpayers (LT) Office where the employer is originally registered, to support such request:

1) Letter request from the Official/Employee (or by his heirs) or the Employer for the exemption of separation benefits from income tax and withholding tax;

2) Death — Certified true copy of Death Certificate;

3) Sickness/Physical Disability

   a) Sworn Affidavits to be executed by the employer's physician or the employee's attending physician and the Head of Office/Entity or his representative, attesting to the fact that the retiring/separated official or employee is suffering from a serious illness or physical disability that affects the performance of his duties and endangers his life, if he continues working;

   b) Clinical Record of the official/employee concerned indicating the history of illness/physical disability and initial diagnosis; and

   c) Laboratory examination confirming the illness suffered by such official/employee or medical certificate confirming the physical disability of the official/employee.

4) Installation of Labor-saving Devices

   a) Written notice to the employee and the appropriate Regional Office of the Department of Labor and Employment (DOLE) at least thirty (30) days before the effectivity of termination, specifying the ground for termination.

   b) Board Resolution, in case of a juridical entity, or sworn affidavit to be executed by the owner, in case of a sole proprietor, stating the following:

      i. That there has been an introduction of machinery, equipment or other devices, with brief description of the use of said machinery, equipment or device;
      ii. That the introduction of the machinery, equipment or other device has been done in good faith and for valid reason;
      iii. That there is no other option available to the employer than the introduction of machinery, equipment or other device; and
      iv. That the selection of employees to be terminated has been made in accordance with a fair and reasonable criteria.

5) Redundancy

   a) Written notice to the employee and the appropriate Regional Office of the Department of Labor and Employment (DOLE) at least thirty (30) days before the effectivity of termination, specifying the ground for termination.

   b) Board Resolution, in case of a juridical entity, or sworn affidavit to be executed by the owner, in case of a sole proprietor, stating the following:

      i. That there has been superfluous positions or services of employees;

ii. That the positions or services are in excess of what is reasonably demanded by the actual requirements of the enterprise to operate in an economical and efficient manner;
iii. That the redundant positions have been abolished in good faith; and
iv. That the selection of employees to be terminated has been made in accordance with a fair and reasonable criteria.

c) Adequate proof of redundancy such as but not limited to the new staffing pattern, feasibility studies/proposal, on the viability of the newly created positions, job description and the approval by the management of the restructuring.

6) Retrenchment

a) Written notice to the employee and the appropriate Regional Office of the Department of Labor and Employment (DOLE) at least thirty (30) days before the effectivity of termination, specifying the ground for termination.

b) Board Resolution, in case of a juridical entity, or sworn affidavit to be executed by the owner, in case of a sole proprietor, stating the following:

i. That the retrenchment is reasonably necessary and likely to prevent business losses;
ii. That the losses, if already incurred, are not merely *de minimis*, but substantial, serious, actual and real, or if only expected, are reasonably imminent, with appropriate supporting evidence of said losses;
iii. That the retrenchment is made in good faith for the advancement of its interest and not to defeat or circumvent the employees' right to security of tenure; and
iv. That the selection of employees to be terminated has been made in accordance with a fair and reasonable criteria.

7) Closure or Cessation of Operation

a) Written notice to the employee and the appropriate Regional Office of the Department of Labor and Employment (DOLE) at least thirty (30) days before the effectivity of termination, specifying the ground for termination.

b) Board Resolution, in case of a juridical entity, or sworn affidavit to be executed by the owner, in case of a sole proprietor, stating the following:

i) That the management has decided to close or cease operation of the company;
ii) That the closure or cessation of operation has been made in good faith; and
iii) That there is no other option available to the employer except to close or cease operation.

The Bureau shall not be precluded from requiring additional documents to prove entitlement to tax exemption under the prevailing circumstances. Attached herewith are Annexes "A-1" to "A-4" for the checklists of documentary requirements in cases enumerated above.

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SECTION 3. Item IV of RMO No. 26-2011 is hereby amended to read as follows:

IV. Tax Exemptions and Incentives of Separation Benefits

The separation benefits received by an official or employee or by his heirs from the employer as a consequence of separation of such official or employee from the service of the employer because of death, sickness or other physical disability **or for any cause beyond the control of said official or employee**, regardless of age and length of service, shall have the following tax implications:

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SECTION 4. Repealing Clause. — Any revenue issuance which is inconsistent with this Order is deemed revoked, repealed, or modified accordingly.

SECTION 5. Effectivity. — This Order shall take effect immediately. All concerned are enjoined to give this Order a wide publicity as possible.

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

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