REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

REVENUE REGULATIONS NO. 11-2013

May 20, 2013

SUBJECT: Filing/Submission of Hard Copy of the Certificate of Compensation Payment/Tax Withheld (BIR Form 2316) Covering Employees Who are Qualified for Substituted Filing, thereby Amending Revenue Regulations (RR) No. 2-98, as last amended by RR No. 010-08.

T O : All Internal Revenue Officers, Employees and Others Concerned

SECTION 1. Background. — These Regulations are issued in order to prescribe additional forms/documents to be filed by withholding agents in compliance with their duty to report income of their employees under the law.

SECTION 2. Amendment. Section 2.83 of RR 2-98, as amended, is hereby further amended to read as follows:

"Sec. 2.83. Statements and Returns. —

Section 2.83.1.Employees Withholding Statements (BIR Form No. 2316). — In general, every employer or other person who is required to deduct and withhold the tax on compensation including fringe benefits given to rank and file employees, shall furnish every employee from whose compensation taxes have been withheld the Certificate of Compensation Payment/Tax Withheld (BIR Form No. 2316) on or before January 31 of the succeeding calendar year, or if employment is terminated before the close of such calendar year, on the day on which the last payment of compensation is made. Failure to furnish the same shall be a ground for the mandatory audit of payor's income tax liabilities (including withholding tax) upon verified complaint of the payee.

Employers of MWEs are still required to issue BIR Form No. 2316 (June 2008 Encs version) to the MWEs on or before January 31 of the following year.

As a rule, the employer shall furnish each employee with the original and duplicate copies of BIR Form No. 2316 showing the name and address of the employer; employer's TIN; name and address of the employee; employee's TIN; amount of exemptions claimed, amount of premium payments on health and/or hospitalization insurance not exceeding P 2,400.00, if any; the sum of

compensation paid including the non-taxable benefits; the amount of statutory minimum wage received by MWEs; Overtime pay, holiday pay, night shift differential pay and hazard pay received by MWEs; the amount of tax due; the amount of tax withheld during the calendar year and such other information as may be required. The statement must be signed by both the employer or other authorized officer and the employee, and shall contain a written declaration that it is made under the penalties of perjury. If the employer is the Government of the Philippines, its political subdivision, agency or instrumentality or government-owned or controlled corporation, the statement shall be signed by the duly designated officer or employee.

However, in cases covered by substituted filing, the employer shall furnish each employee with the original copy of BIR Form No. 2316 and file/submit to the BIR the duplicate copy not later than February 28 following the close of the calendar year.

xxxx xxxx xxxx"

SECTION 3. Penal Provisions – Any employer/withholding agent, including the government or any of its political subdivisions and government owned and controlled corporations, who/which fails to comply with the above filing/submission of BIR Form 2316 within the time required by this Regulations, may be held liable under Section 250 of the Tax Code reading, "*In the case of each failure to file an information return, statement or list, or keep any record, or supply any information required by this Code or by the Commissioner on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall, upon notice and demand by the Commissioner, be paid by the person failing to file, keep or supply the same, one thousand pesos (P1,000) for each such failure: Provided, however, That the aggregate amount to be imposed for all such failures during a calendar year shall not exceed twenty-five thousand pesos (P25,000).*

However, any employer/withholding agent, including the government or any of its political subdivisions and government owned and controlled corporations, who/which fails to comply with the above filing/submission of BIR Form 2316 within the time required by this Regulations for **two consecutive years** may be dealt with in accordance with Section 255 which provides in part that "*Any person required under this Code or by rules and regulations promulgated thereunder to pay any tax,* ***make any return****, keep any record,* ***or supply correct and accurate information****, who* ***wilfully fails*** *to pay such tax,* ***make such return****, keep such record,* ***or supply such correct and accurate information,*** *or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than Ten Thousand Pesos (P10,000.00) and*

suffer imprisonment of not less than one (1) year but not more than ten (10) years." In settlement under this situation, the compromise fee shall be P1,000 for each BIR Form No. 2316 not filed without any maximum threshold.

SECTION 4. **Effectivity.** This regulations shall take effect beginning with the calendar year 2013.

(Original Signed)
CESAR V. PURISIMA
Secretary of Finance

Recommending Approval:

(Original Signed)
KIM S. JACINTO-HENARES
Commissioner of Internal Revenue