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

REVENUE REGULATIONS NO. 11-2018

January 31, 2018

SUBJECT : Amending Certain Provisions of Revenue Regulations No. 2-98, as Amended, to Implement Further Amendments Introduced by Republic Act No. 10963, Otherwise Known as the "Tax Reform for Acceleration and Inclusion (TRAIN)" Law, Relative to Withholding of Income Tax.

TO : All Internal Revenue Officers and Others Concerned

Pursuant to the provisions of Section 244 of the National Internal Revenue Code and the provisions of Republic Act No. 10963 (TRAIN Law), certain provisions of Revenue Regulations (RR) No. 2-98, as amended, is hereby further amended as prescribed under the aforesaid law.

SECTION 1. Certain items of Section 2.57.1 of RR No. 2-98, as amended, is hereby renumbered and further amended to read as follows:

"**SECTION 2.57.1.** ***Income Payments Subject to Final Withholding Tax***. The following forms of income shall be subject to final withholding tax at the rates herein specified:

(A) ***Income Payments to a Citizen or to a Resident Alien Individual***:

(1) Interest from any peso bank deposit, and yield or any monetary benefit from deposit substitutes and from trust funds and similar arrangements; royalties (except on books, as well as other literary and musical compositions), prizes (except prizes amounting to Ten thousand pesos [₱10,000] or less which shall be subject to tax under Subsection (A) of Section 24 of the Tax Code, as amended); and other winnings (except winnings from Philippine Charity Sweepstakes and lotto amounting to ₱10,000 or less which shall be exempt) derived from sources within the Philippines – Twenty percent (20%)

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(3) Interest income received by an individual taxpayer from a depository bank under the Expanded Foreign Currency Deposit system – Fifteen percent (15%).

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(5) Cash and/or property dividends actually or constructively received from a domestic corporation, joint stock company, insurance or mutual fund companies and regional operating headquarters of multinational companies, or on the share of an individual in the distributable net income after tax of a

partnership (except general professional partnership) of which he is a partner, or on the share of an individual in the net income after tax of an association, a joint account or a joint venture or consortium taxable as a corporation of which he is a member or co-venturer – Ten percent (10%)

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(8) *Capital Gains from Sale of Shares of Stock Not Traded in the Stock Exchange*. – On the net capital gains realized during the taxable year from the sale, barter, exchange or other disposition of shares of stock in a domestic corporation – Fifteen percent (15%)

(B) ***Income Payments to Non-resident Aliens Engaged in Trade or Business in the Philippines***. – xxx

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(6) Capital Gains from Sale of Shares of Stock Not Traded in the Stock Exchange. – On net capital gains realized during the taxable year from the sale, barter, exchange or other disposition of shares of stock in a domestic corporation – Fifteen percent (15%)

(C) ***Income Derived from All Sources Within the Philippines by a Non-resident Alien Individual Not Engaged in Trade or Business Within the Philippines***. - xxx

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(3) Capital Gains from Sale of Shares of Stock Not Traded in the Stock Exchange. – On net capital gains realized during the taxable year from the sale, barter, exchange or other disposition of shares of stock in a domestic corporation – Fifteen percent (15%)

(D) ***Income Payment to a Domestic Corporation***. [formerly under letter (G)] – xxx

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(3) Interest income derived from a depository bank under the Expanded Foreign Currency Deposit system – Fifteen percent (15%).

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(7) Capital Gains from Sale of Shares of Stock Not Traded in the Stock Exchange. – On net capital gains realized during the taxable year from the sale, barter, exchange or other disposition of shares of stock in a domestic corporation – Fifteen percent (15%).

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(E) ***Income Payment to a Resident Foreign Corporation***. [formerly under letter (H)]– xxx

(F) ***Income Derived from All Sources Within the Philippines by Non-Resident Foreign Corporation***. [formerly under letter (I)]– xxx

(G) ***Fringe Benefits Granted to the Employee (Except Rank and File Employee)***. – [formerly under letter (J)] – On the grossed-up monetary value of the fringe benefits granted or furnished by the employer to his employees (except rank-and-file as defined in the Code). –

Employee is a citizen/resident alien/non-resident alien engaged in trade or business within the Philippines	- Thirty-five percent (35%)
Employee is a non-resident alien not engaged in trade or business within the Philippines	- Twenty-five percent (25%)

The grossed-up value of the fringe benefit shall be determined by dividing the actual monetary value of the fringe benefit by the difference between one hundred percent (100%) and the applicable rate of income tax. The actual monetary value of the fringe benefit shall be divided by sixty-five percent (65%) to get the grossed-up value subject to 35% fringe benefit tax (FBT); while the divisor shall be seventy-five percent (75%) to get the grossed-up value subject to 25% FBT.

Fringe benefits, however, which are required by the nature of or necessary to the trade, business or profession of the employer, or where such fringe benefit is for the convenience and advantage of the employer shall not be subject to the fringe benefit tax.

The term fringe benefit means any good, service or other benefit furnished or granted in cash or in kind by an employer to an individual employee (except rank and file employees) such as but not limited to, the following:

(1) Housing;
(2) Expense account;
(3) Vehicle of any kind;
(4) Household personnel, such as maid, driver and others;
(5) Interest on loan at less than market rate to the extent of the difference between the market rate and actual rate granted;
(6) Membership fees, dues and other expenses borne by the employer for the employee in social and athletic clubs or other similar organizations;
(7) Expenses for foreign travel;
(8) Holiday and vacation expenses;
(9) Educational assistance to the employee or his dependents; and
(10) Life or health insurance and other non-life insurance premiums or similar amounts in excess of what the law allows.

(H) ***Informer's Reward to Persons Instrumental in the Discovery of Violations of the National Internal Revenue Code and the Discovery and Seizure of Smuggled Goods.*** [formerly under letter (K)] - xxx

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SECTION 2. Certain items of Section 2.57.2 of RR No. 2-98 is hereby renumbered and further amended to read as follows:

"**SECTION 2.57.2.** ***Income Payments Subject to Creditable Withholding Tax and Rates Prescribed Thereon***. – Except as herein otherwise provided, there shall be withheld a creditable income tax at the rates herein specified for each class of payee from the following items of income payments to persons residing in the Philippines:

(A) Professional fees, talent fees, etc. for services rendered – On the gross professional, promotional, and talent fees or any other form of remuneration for the services rendered by the following:

Individual payee:

If gross income for the current year did not exceed ₱3M - Five percent (5%);
If gross income is more than ₱3M - Ten percent (10%)

Non-individual payee:

If gross income for the current year did not exceed ₱720,000-Ten percent (10%);
If gross income exceeds ₱720,000 - Fifteen percent (15%)

(1) Those individually engaged in the practice of profession or callings; lawyers; certified public accountants; doctors of medicine; architects; civil, electrical, chemical, mechanical, structural, industrial, mining, sanitary, metallurgical and geodetic engineers; marine surveyors; doctors of veterinary science; dentist; professional appraisers; connoisseurs of tobacco; actuaries; interior decorators, designers, real estate service practitioners (RESP), (i.e. real estate consultants, real estate appraisers and real estate brokers) requiring government licensure examination given by the Real Estate Service pursuant to Republic Act No. 9646 and all other profession requiring government licensure examination regulated by the Professional Regulations Commission, Supreme Court, etc.

For professional fees paid to medical practitioners (includes doctors of medicine, doctors of veterinary science and dentists) by hospitals and clinics or paid directly by health maintenance organizations (HMOs) and/or similar establishments [formerly under letter (l)]:

(a) It shall be the duty and responsibility of the hospitals, clinics, HMOs and similar establishments to withhold and remit taxes due on the professional fees of their respective accredited medical practitioners, paid by patients who were admitted and confined to such hospitals and clinics. Hospitals,

clinics, HMOs and similar establishments must ensure that correct taxes due on the professional fees of their medical practitioners have been withheld and timely remitted to the Bureau of Internal Revenue (BIR). For this purpose, hospitals and clinics shall not allow their medical practitioners to receive payment of professional fees directly from patients who were admitted and confined to such hospital or clinic and, instead, must include the professional fees in the total medical bill of the patient which shall be payable directly to the hospital or clinic.

(b) Exception – The withholding tax herein prescribed shall not apply whenever there is proof that no professional fee has in fact been charged by the medical practitioner and paid by his patient. Provided, however, that this fact is shown in a sworn declaration jointly executed by the medical practitioner, and the patient or his duly authorized representative, in case the patient is a minor or otherwise incapacitated. This sworn declaration, to be executed in the form presented in Annex "A" of these Regulations, shall form part of the records of the hospital or clinic and shall constitute as part of its records and shall be made readily available to any duly authorized Revenue Officer for tax audit purpose. Provided, further, that the said administrator of the hospital or clinic shall inform the concerned LTS/RR/RDO having jurisdiction over such hospital or clinic about any medical practitioner who fails or refuses to execute the sworn statement herein prescribed, within ten (10) days from the occurrence of such event.

(c) Hospitals and clinics shall submit the list containing the names and addresses of the medical practitioners in the following classifications, every 15th day after the end of each calendar quarter, to the concerned Collection Division of the Revenue Region for non-large taxpayers and at the Large Taxpayers Document Processing and Quality Assurance Division (LT-DPQAD) in the National Office or Large Taxpayers District Office (LTDO) in the Region for large taxpayers, where such hospital of clinic is registered, using the prescribed format.

(i) Medical practitioners whose professional fee was paid by patients directly to the hospital or clinic.

(ii) Medical practitioners who did not charge any professional fee from their patients.

(d) For this purpose, the term 'medical practitioners' shall likewise include medical technologists, allied health workers (e.g., occupational therapists, physical therapists, speech therapists, nurses, etc.) and other medical practitioners who are not under an employer-employee relationship with the hospital or clinic, or HMO and other similar establishments.

(e) Hospitals and clinics shall be responsible for the accurate computation of taxes to be withheld on professional fees paid by patients thru the hospitals and clinics, in the same way that HMOs shall be responsible for the computation of taxes to be withheld from the professional fees paid by

them to the medical practitioners, and the timely remittance of the applicable expanded withholding tax.

The list of all income recipients-payees in this Subsection shall be included in the Alphalist of Payees Subject to Expanded Withholding Tax attached to BIR Form No. 1604-E (Annual Information Return of Creditable Income Taxes Withheld (Expanded)/Income Payments Exempt from Withholding Tax).

Likewise, the hospitals, clinics or HMOs shall issue a Certificate of Creditable Withholding Tax Withheld at Source (BIR Form No. 2307) to medical practitioners who are subjected to withholding, every 20th day following the close of the taxable quarter or upon request of the payee.

All hospitals and clinics shall submit to the BIR (Collection Division of the Regional Office having jurisdiction over the place where the income earner is registered/LT-DPQAD for large taxpayers in Metro Manila/LTDO for large taxpayers outside Metro Manila), in three (3) copies [two (2) copies for the BIR and one (1) copy for the taxpayer], a sworn statement executed by the president/managing partner of the corporation/company as to the complete and updated list of medical practitioners accredited with them.

(2) Professional entertainers, such as, but not limited to, actors and actresses, singers, lyricists, composers and emcees.

(3) Professional athletes including basketball players, pelotaris and jockeys;

(4) All directors and producers involved in movies, stage, radio, television and musical productions;

(5) Insurance agents and insurance adjusters;

(6) Management and technical consultants;

(7) Bookkeeping agents and agencies;

(8) Other recipients of talent fees;

(9) Fees of directors who are not employees of the company paying such fees, whose duties are confined to attendance at and participation in the meetings of the board of directors;

(10) Income Payments to certain brokers and agents [formerly under letter (G)]– on gross commissions of customs, insurance, stock, immigration and commercial brokers, fees of agents of professional entertainers and real estate service practitioners (RESPs), (i.e. real estate consultants, real estate appraisers and real estate brokers) who failed or did not take up the licensure examination given by and not registered with the Real Estate Service under the Professional Regulations Commission.

(11) Commissions of independent and/or exclusive sales representatives, and marketing agents of companies [formerly under letter (O)] – on gross commissions, rebates, discounts and other similar considerations paid/granted to independent and/or exclusive sales representatives and marketing agents and sub-agents of companies, including multi-level marketing companies, on their sale of goods and services by way of direct selling or similar arrangements where there is no transfer of title over the goods from the seller to the agent/sales representative.

"Multi-level marketing", for purposes of these regulations, is a system of direct selling in which consumer products are sold by individuals where consumer products and services are supplied by an established multi-level marketing company who encourages the distributor to build and manage his own sales force by recruiting, motivating, and training others to sell the product or service. A percentage on the sales of the distributor's sales force would be his compensation in addition to his personal sales.

"Multi-level marketing companies", for purposes of these regulations, means any entity that is engaged in the sale of its products or services through individual that directly sell such products or services to the consumers.

The amounts subject to withholding tax under this subsection *(A)* shall include not only fees but also per diem fees, allowances and other form of income payments not subject to withholding tax on compensation.

In the case of professional entertainers, professional athletes, directors involved in movies, stage, radio, television and musical productions and other recipients of talent fees, the amounts subject to withholding tax shall include amounts paid to them in consideration for the use of their names or pictures in print, broadcast, or other media or for public appearances, for purposes of advertisements or sales proportion.

If the recipient of the aforementioned income, however, is an employee of the lone income payor, such fees or payments shall be considered supplemental compensation subject to the withholding tax on compensation under Section 2.78 of these Regulations.

Individual payees whose gross receipts/sales in a taxable year shall not exceed ₱3M, are required to submit a sworn declaration of his/her gross receipts/sales (Annex "B-1"), together with a copy of Certificate of Registration (COR), to all the income payor/withholding agents not later than January 15 of each year or at least prior to the initial payment of the professional fees/commissions/talent fees, etc in order for them to be subject to five percent (5%). The ten percent (10%) withholding tax rate shall be applied in the following cases: *(1)* the payee failed to provide the income payor/withholding agent of such declaration; or *(2)* the income payment exceeds ₱3M, despite receiving the sworn declaration from the income payee. In the case of individual payees with only one payor, the sworn declaration to be accomplished shall be Annex "B-2" and submitted, together with a copy of their COR, to the said lone income payor.

In the case of non-individual payees, if the company or corporation's gross income is estimated not to exceed ₱720,000 during the taxable year, the authorized officer is required to provide all its income payors/withholding agents with a notarized sworn statement to that effect (Annex "B-3"), together with a copy of the COR, not later than January 15 of each year or prior to the initial income payment so that the income payor/withholding agent shall only withhold ten percent (10%). The fifteen percent (15%) withholding tax rate shall be applied in the following cases: *(1)* the payee failed to provide the income payor/withholding agent of such declaration; or *(2)* the income payment exceeds ₱720,000, despite receiving the sworn declaration from the income payee. The sworn declaration shall be executed by the president/managing partner of the corporation/company/general professional partnerships.

Moreover, income payors/withholding agents shall subsequently execute a sworn declaration (Annex "C") stating the number of payees who have submitted the income payees' sworn declarations (Annexes "B-1", "B-2" and "B-3") with the accompanying copies of their COR. Such declaration of the income payors/withholding agents shall be submitted, together with the list of payees, to the concerned BIR office where registered on or before January 31 of each year or fifteen (15) days following the month when a new income recipient has submitted the payee's sworn declaration.

(B) Rentals [formerly under letter (C)]

(1) **Real Properties -** On gross rental for the continued use or possession of real property used in business which the payor or obligor has not taken or is not taking title, or in which he has no equity – Five percent (5%)

(2) **Personal Properties** – On gross rental or lease in excess of Ten Thousand Pesos (₱10,000) annually for the continued use or possession of personal property used in business which the payor or obligor has not taken or is not taking title, or in which he has no equity, except those under financial lease arrangements with leasing and finance companies authorized to operate under Republic Act No. 8556 (Financing Company Act of 1998). – Five percent (5%)

However, the Ten Thousand Pesos (₱10,000) threshold shall not apply when the accumulated gross rental or lease paid by the lessee to the same lessor exceeds or is reasonably expected to exceed ₱10,000 within the year. In which case, the lessee shall withhold the five percent (5%) withholding tax on the entire amount.

(3) **Poles, satellites and transmission facilities -** On gross rentals or lease for the use of poles, satellites and/or transponder and transmission facilities which include but not limited to the following: switchboards, land lines/aerial cables, underground cables and submarine cables – Five percent (5%)

(4) **Billboards -** On gross rentals or lease of spaces used in posting advertisements in the form of billboards and/or structures similar thereto,

posted in public places such as, but not limited to, buildings, vehicles, amusement places, malls, street posts, etc. – Five percent (5%);

(5) **Cinematographic film rentals and other payments** [formerly under letter (D)]– On gross payments to resident individuals and corporate cinematographic film owners, lessors or distributors – Five percent (5%)

(C) Income payments to certain contractors [formerly under letter (E)] – On gross payments to the following contractors, whether individual or corporate — Two percent (2%)

(1) General engineering contractors — Those whose principal contracting business in connection with fixed works requiring specialized engineering knowledge and skill including the following divisions or subjects:

(a) Reclamation works;
(b) Railroads;
(c) Highways, streets and roads;
(d) Tunnels;
(e) Airports and airways;
(f) Waste reduction plants;
(g) Bridges, overpasses, underpasses and other similar works;
(h) Pipelines and other systems for the transmission of petroleum and other liquid or gaseous substances;
(i) Land leveling;
(j) Excavating;
(k) Trenching;
(l) Paving; and
(m) Surfacing work.

(2) General Building contractors — Those whose principal contracting business is in connection with any structure built, for the support, shelter and enclosure of persons, animals, chattels, or movable property of any kind, requiring in its construction the use of more than two unrelated building trades or crafts, or to do or superintend the whole or any part thereto. Such structure includes sewers and sewerage disposal plants and systems, parks, playgrounds, and other recreational works, refineries, chemical plants and similar industrial plants requiring specialized engineering knowledge and skills, powerhouse, power plants and other utility plants and installation, mines and metallurgical plants, cement and concrete works in connection with the above-mentioned fixed works.

(3) Specialty Contractors — Those whose operations pertain to the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts.

(4) Other contractors —

(a) Filling, demolition and salvage work contractors and operators of mine drilling apparatus;

(b) Operators of dockyards;

(c) Persons engaged in the installation of water system, and gas or electric light, heat or power;

(d) Operators of stevedoring, warehousing or forwarding establishments;

(e) Transportation contractors which include common carriers for the carriage of goods and merchandise of whatever kind by land, air or water, where the gross payments by the payor to the same payee amounts to at least two thousand pesos (₱2,000) per month, regardless of the number of shipments during the month;

(f) Printers, bookbinders, lithographers and publishers except those principally engaged in the publication or printing of any newspaper, magazine, review or bulletin which appears at regular intervals, with fixed prices for subscription and sale;

(g) Messengerial, janitorial, private detective and/or security agencies, credit and/or collection agencies and other business agencies;

(h) Advertising agencies, exclusive of gross payments to media;

(i) Independent producers of television, radio and stage performances or shows;

(j) Independent producers of "jingles";

(k) Labor recruiting agencies and/or "labor-only" contractors. For this purpose, any person who undertakes to supply workers to an employer shall be deemed to be engaged in "labor-only" contracting where such person does not have substantial capital or investment in the form of tools, equipment, machineries, work premises and other materials and the workers recruited and placed by such person are performing activities which are directly related to the principal business or operations of the employer which the workers are habitually employed;

(l) Persons engaged in the installation of elevators, central air conditioning units, computer machines and other equipment and machineries and the maintenance services thereon;

(m) Persons engaged in the sale of computer services, computer programmers, software/program developer/designer, internet service providers, web page designing, computer data processing, conversion or base services and other computer related activities;

(n) Persons engaged in landscaping services;

(o) Persons engaged in the collection and disposal of garbage;

(p) TV and radio station operators on sale of TV and radio airtime; and

(q) TV and radio blocktimers on sale of TV and radio commercial spots.

(D) Income distribution to the beneficiaries [formerly under letter (F)] – On income distributed to the beneficiaries of estates and trust as determined under Sec. 60 of the Code, except such income subject to final withholding tax and tax exempt income — Fifteen percent (15%)

(E) Income payments to partners of general professional partnerships [formerly under letter (H)] – Income payments made periodically or at the end of the taxable year by a general professional partnership to the partners, such as drawings, advances, sharings, allowances, stipends, etc. — Fifteen percent (15%), if the gross income for the current year exceeds P720,000; and Ten percent (10%), if otherwise.

(F) Gross selling price or total amount of consideration or its equivalent paid to the seller/owner for the sale, exchange, or transfer of real property classified as ordinary asset [formerly under letter (J)] – A creditable withholding tax based on the gross selling price/total amount of consideration or the fair market value determined in accordance with Section 6(E) of the Code, whichever is higher, paid to the seller/owner for the sale, transfer or exchange of real property, other than capital asset, shall be imposed upon the withholding agent/buyer, in accordance with the following schedule:

A.	Where the seller/transferor is exempt from the creditable withholding tax in accordance with Sec. 2.57.5 of these regulations	Exempt
B.	Upon the following values of real property, where the seller/transferor is habitually engaged in the real estate business:	
	With a selling price of five hundred thousand pesos (P500,000.00) or less	1.5%
	With a selling price of more than five hundred thousand pesos (P500,000.00) but not more than two million pesos (P2,000,000.00)	3.0%
	With selling price of more than two million pesos (P2,000,000.00)	5.0%
C.	Where the seller/transferor is not habitually engaged in the real estate business	6.0%

Registration with the HLURB or HUDCC shall be sufficient for a seller/transferor to be considered as habitually engaged in the real estate business. If the seller/transferor is not registered with HLURB or HUDCC, he/it may prove that

he/it is engaged in the real estate business by offering other satisfactory evidence (for example, he/it consummated during the preceding year at least six taxable real estate transactions, regardless of amount). Notwithstanding the foregoing, for purposes of these Regulations, banks shall not be considered as habitually engaged in the real estate business.

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(G) Additional income payments to government personnel from importers, shipping and airline companies, or their agents [formerly under letter (K)] – On gross additional payments by importers, shipping and airline companies, or their agents to government personnel for overtime services as authorized by law — Fifteen percent (15%);

For this purpose, the importers, shipping and airline companies or their agents, shall be the withholding agents of the Government.

(H) Certain income payments made by credit card companies [formerly under letter (L)] – On one-half (1/2) of the gross amounts paid by any credit card company in the Philippines to any business entity, whether a natural or juridical person, representing the sales of goods/services made by the aforesaid business entity to cardholders — One percent (1%)

(I) Income payment made by top withholding agents, either private corporations or individuals, to their local/resident supplier of goods and local/resident supplier of services other than those covered by other rates of withholding tax. [formerly under letters (M) and (W)] – Income payments made by any of the ***top withholding agents***, as determined by the Commissioner, to their local/resident supplier of goods/services, including non-resident aliens engaged in trade or business in the Philippines, shall be subjected to the following withholding tax rates:

Supplier of goods – One percent (1%)
Supplier of services – Two percent (2%)

Top withholding agents shall include the following:

a. Classified and duly notified by the Commissioner as either any of the following unless previously de-classified as such or had already ceased business operations:

   (1) A large taxpayer under Revenue Regulations No. 1-98, as amended;
   (2) Top twenty thousand (20,000) private corporations under RR No. 6-2009; or
   (3) Top five thousand (5,000) individuals under RR No. 6-2009;

b. Taxpayers identified and included as Medium Taxpayers, and those under the Taxpayer Account Management Program (TAMP).

The top withholding agents by concerned LTS/RRs/RDOs shall be published in a newspaper of general circulation. It may also be posted in the BIR website. These shall serve as the "notice" to the top withholding agents. The obligation to withhold under this sub-section shall commence on the first (1st) day of the month following the month of publication. Existing withholding agents classified as large taxpayers, top 20,000 private corporations or top 5,000 individuals which have not been delisted prior to these regulations shall remain as top withholding agents. The initial and succeeding publications shall include the additional top withholding agents and those that are delisted.

The term "goods" pertains to tangible personal property. It does not include intangible personal property, as well as agricultural products which are defined under item (N) of this Section.

The term "local resident suppliers of goods/suppliers of services" pertains to a supplier from whom any of the top withholding agents, regularly makes its purchases of goods/services. As a general rule, this term does not include a casual purchase of goods/services that is purchase made from a non-regular supplier and oftentimes involving a single purchase. However, a single purchase which involves Ten thousand pesos (₱10,000) or more shall be subject to withholding tax under this subsection. The term "regular suppliers", for purposes of these regulations, refer to suppliers who are engaged in business or exercise of profession/calling with whom the taxpayer-buyer has transacted at least six (6) transactions, regardless or amount per transaction, either in the previous year or current year.

(J) Income Payments made by a government office, national or local, including barangays, or their attached agencies or bodies, and government-owned or controlled corporations to its local/resident supplier of goods/services, other than those covered by other rates of withholding tax. [formerly under letter (N)] – Income payments, except any single purchase which is P10,000 and below, which are made by a government office, national or local, including barangays, or their attached agencies or bodies, and government-owned or controlled corporations, on their purchases of goods and purchases of services from local/resident suppliers:

Supplier of goods – One percent (1%)
Supplier of services – Two percent (2%)

A government-owned or controlled corporation shall withhold the tax in its capacity as a government-owned or controlled corporation rather than as a corporation stated in Subsection (I) hereof.

(K) Tolling fees paid to refineries [formerly under letter (P)] – On the gross processing/tolling fees paid for the conversion of molasses to its by-products and raw sugar to refined sugar. – Five percent (5%)

(L) Payments made by pre-need companies to funeral parlors [formerly under letter (Q)] – On the gross payments made by pre-need companies to funeral parlors for funeral services rendered. – One percent (1%).

(M) Payments made to embalmers [formerly under letter (R)] – On the gross payments made to embalmers for embalming services rendered to funeral companies. – One percent (1%)

(N) Income payments made to suppliers of agricultural products [formerly under letter (S)] – Income payments made to agricultural suppliers such as those, but not limited to, payments made by hotels, restaurants, hotels, restaurants, resorts, caterers, food processors, canneries, supermarkets, livestock, poultry, fish and marine product dealers, hardwares, factories, furniture shops, and all other establishments, in excess of the cumulative amount of Three hundred thousand pesos (₱300,000.00) within the same taxable year. - One percent (1%)

The term "agricultural suppliers" refers to suppliers/sellers of agricultural, forest and marine food and non-food products, livestock and poultry of a kind generally used as, or yielding or producing of foods for human consumption; and breeding stock and genetic materials therefor. "Livestock" shall include cow, bull and calf, pig, sheep, goat and other animals similar thereto. "Poultry" shall include fowl, duck, goose, turkey and other animals similar thereto. "Marine products" shall include fish and crustacean such as but not limited to, eel, trout, lobster, shrimp, prawn, oyster, mussel and clam, shell and other aquatic products.

Meat, fruit, fish, vegetable and other agricultural and marine food products, even if they have undergone the simple processes of preparation or preservation for the market, such as freezing, drying, salting, smoking or stripping, including those using advanced technological means of packaging, such as shrink wrapping in plastics, vacuum packing, tetra-pack and other similar packaging method, shall still be covered by this subsection.

An agricultural food product shall include, but shall not be limited to the following: corn, coconut, copra, palay, cassava, coffee, etc. Polished and/or husked rice, corn grits, locally produced raw cane sugar and ordinary salt shall be considered as agricultural food products.

(O) Income payments on purchases of minerals, mineral products and quarry resources as defined and discussed in Section 151 of the Tax Code [formerly under letter (T)] – Income payments on purchases of minerals, mineral products, and quarry resources such as but not limited to silver, gold, marble, granite, gravel, sand, boulders and other materials/products. – Five percent (5%). However, BSP is required to withhold one percent (1%) of gross payments made, and remit the same to the Government.

(P) MERALCO Payments on the following [formerly under letter (U)]***:***

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(Q) Interest income on the refund paid either through direct payment or application against customers' billings by other electric Distribution Utilities (DUs) in accordance with the rules embodied in ERC Resolution No. 8, Series of 2008, dated June 4, 2008, governing the refund of meter deposits … [formerly under letter (V)] - xxx

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(R) Income payments made by political parties and candidates of local and national elections on all their purchase of goods and services related to campaign expenditures, and income payments made by individuals or juridical persons for their purchases of goods and services intended to be given as campaign contributions to political parties and candidates [formerly under letter (X)] – Five percent (5%)

(S) Interest income derived from any other debt instruments not within the coverage of 'deposit substitutes' and Revenue Regulations 14-2012, unless otherwise provided by law or regulations [formerly under letter (Y)] – Twenty Percent (20%)

(T) Income payments to Real Estate Investment Trust (REIT) [formerly under letter (Z)] – Income payments made to corporate taxpayers duly registered with the LTS-Regular LT Audit Division as REIT for purposes of availing the incentive provisions of Republic Act No. 9856, otherwise known as "The Real Estate Investment Trust Act of 2009", as implemented by RR 13-2011 - One percent (1%)

(U) Income payments on sugar [formerly under letter (AA)] - xxx

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Provided, finally, That, notwithstanding the presentation of proof of exemption from the payment of income tax (e.g. BIR ruling, special law, etc.), the concerned proprietor, or operator of the sugar mill/refinery, or any buyer of Quedan or Molasses Storage Certificate is still required to withhold and remit the creditable withholding tax.

For purposes of these regulations, all income payments paid to sub-agents or their equivalent, whether paid directly or indirectly by the agent or the owner of the goods, shall be subject to withholding tax in the same manner as that of the agent.

Any income subject to income tax may be subject to withholding tax; however, income exempt from income tax is consequently exempt from withholding tax. Further, income not subject to withholding tax does not necessarily mean that it is not subject to income tax."

SECTION 3. Section 2.57.3 of RR No. 2-98, as amended, is hereby further amended to read as follows:

"**SECTION 2.57.3. Persons Required to Deduct and Withhold.** – xxx

xxx xxx xxx

The obligation to withhold is imposed upon the buyer-payor of income although the burden of tax is really upon the seller-income earner/payee; hence, unjustifiable refusal of the latter to be subjected to withholding shall be a ground for the mandatory audit of all internal revenue tax liabilities, as well as the imposition of penalties pursuant to Section 275 of the Tax Code, as amended, upon verified complaint of the buyer-payor.

Provided, however, that an individual seller-income earner/payee, may not be subjected to withholding under Section 2.57.2 hereof if the source of income comes from a lone income payor and the total income payment is less than ₱250,000 in a taxable year. In this case, the concerned individual shall execute an Income Payee's Sworn Declaration of gross receipts/sales (Annex "B-2") that shall be submitted to the lone payor. The payee's sworn declaration shall be submitted to the lone income payor of income before the initial payment of income or before January 15 of each year, whichever is applicable. The income payor/withholding agent shall in turn execute its own Income Payor/Withholding Agent's Sworn Declaration (Annex "C") stating the number of payees who shall not be subjected to withholding taxes and have duly submitted their income payees' sworn declarations and copies of COR. Together with the income payor/withholding agent's sworn declaration is the list of payees, who shall not be subjected to withholding tax, which shall be submitted by the income payor/withholding agent to the concerned BIR office on or before the last day of January of each year or on the fifteenth (15th) day of the following month when a new income recipient submitted the payee's sworn declaration to the lone income payor/withholding agent.

The income payor/withholding agent's sworn declaration (Annex "C") shall be filed in two (2) copies with the concerned LTS/RR/RDO office where the income payor/withholding agent is registered and shall be distributed as follows:

(1) Original copy for the BIR; and
(2) Duplicate copy for lone payor/withholding agent.

The duly received income payor/withholding agent's sworn declaration including the required list shall serve as proof that the income payments made are not subject to withholding tax.

In the event that the individual payee's cumulative gross receipts in a year exceed ₱250,000, the income payor/withholding agent shall withhold the prescribed withholding tax based on the amount in excess of ₱250,000, despite the prior submission of the individual income payee's sworn declaration. On the other hand, if the individual income payee failed to submit an income payee's sworn declaration to the lone income payor/withholding agent, the income payment shall be subject to the applicable withholding tax even though in a taxable year the income payment is ₱250,000 and below.

For individual payees, the income payor/withholding agent shall withhold the prescribed withholding tax rate. In case there are two rates prescribed, the higher rate shall apply if:

(1) the payee failed to provide the income payor/withholding agent of the required declaration; or *(2)* the income payment exceeds P3M, despite receiving the sworn declaration from the income payee.

For non-individual payees, the income payor/withholding agent shall withhold the prescribed withholding tax rate. In case there are two rates prescribed, the higher rate shall apply if: *(1)* the payee failed to provide the income payor/withholding agent of the required declaration; or *(2)* the income payment exceeds P720,000, despite receiving the sworn declaration from the income payee.

Illustration 1: Ms. Tina supplies special cupcakes on a regular basis to RPSV Supermarket, a top withholding agent pursuant to Section 2.57.2 (I) of these regulations. Prior to 2018, her annual sales to RPSV Supermarket never exceeded ₱250,000. She only bakes cupcakes upon order. RPSV Supermarket is her lone payor of income; thus, she executed the sworn declaration of gross receipts stating that her gross expected receipts shall not exceed ₱250,000 for the year from RPSV Supermarket. However, in the latter part of 2018, RPSV Supermarket noted that its purchase of cupcakes shall exceed ₱250,000. As expected, in 2018 the total purchase of cupcakes by RPSV Supermarket from Ms. Tina amounted to ₱300,000.

Computation:
In this case, RPSV Supermarket shall withhold the amount of ₱500, computed as follows:

Gross Receipts	₱ 300,000.00
Less: Amount not subject to withholding tax	250,000.00
Income subject to withholding tax	₱ 50,000.00
Multiply by: EWT rate	1%
Amount of withholding tax	₱ 500.00

* RPSV Supermarket is included as "Top Withholding Agent", thus, the rate of income tax withholding is 1% for the payments made to Ms. Tina, the supplier of goods.

Illustration 2: Mr. Marvin was hired as a courier by G.O.D. Collection Services, Inc., under a Contract for Service for one (1) year, with payment on the basis of the number of letters/notices delivered. In the past years, Mr. Marvin's gross receipts from the said company never exceeded ₱250,000. In 2018, his gross receipts amounted to ₱230,000.

Computation:
In this case, G.O.D. Collection Services Inc. shall withhold the amount of ₱4,600, computed as follows:

Gross Receipts	₱ 230,000.00
Less: Amount not subject to withholding tax	0.00
Income subject to withholding tax	₱ 230,000.00
Multiply by: EWT rate	2%
Amount of withholding tax	₱ 4,600.00

* The withholding tax rate applicable in this case is 2%, since Mr. Marvin is a supplier of services considered as service contractor.

* However, no withholding shall be made if Mr. Marvin executed a payee's sworn declaration in accordance with the format (Annex "B-2") provided under these regulations, and the same has been received by G.O.D. Collection Services Inc. (lone payor/withholding agent) and processed in accordance with prescribed policy."

SECTION 4. Section 2.57.5 of RR No. 2-98, as amended, is hereby further amended to read as follows:

"***SECTION 2.57.5. Exemption from Withholding. The withholding of creditable withholding tax prescribed in these Regulations shall not apply to income payments made to the following***:

xxx xxx xxx

(B) ***Persons enjoying exemption from payment of income taxes pursuant to the provisions of any law, general or special, such as but not limited to the following***:

(1) Sales of real property by a corporation which is registered with and certified by the Housing and Land Use Regulatory Board (HLURB) or the Housing and Urban Development Coordinating Council (HUDCC) as engaged in socialized housing project where the selling price of the house and lot or only lot does not exceed the socialized housing price applicable to the area as prescribed and certified by the said board/council as provided under Republic Act No. 7279 and its implementing regulations.

xxx xxx xxx

(3) Corporations which are exempt from the income tax under Sec. 30 of the Tax Code, as amended, and government-owned or controlled corporations exempt from income tax under Section 27(A)(C) of the same Code, to wit: the Government Service Insurance System (GSIS), the Social Security System SSS), the Philippine Health Insurance Corporation (PHIC); and the Local Water Districts (LWD). However, the income payments arising from any activity which is conducted for profit or income derived from real or personal property shall be subject to withholding tax as prescribed in these regulations.

xxx xxx xxx

(5) Joint ventures or consortium formed for the purpose of undertaking construction projects or engaging in petroleum, coal, geothermal and other energy operations pursuant to an operating or consortium agreement under a service contract with the government. Provided, however, joint ventures or consortium formed for the purpose of undertaking construction projects shall

comply with the following conditions to be considered as joint venture not taxable as a corporation:

a) Should involve joining or pooling of resources by licensed local contracts; that is, licensed as general contractor by the Philippine Contractors Accreditation Board (PCAB) of the Department of Trade and Industry (DTI);
b) These local contractors are engaged in construction business; and
c) The Joint Venture itself must likewise be duly licensed as such by the PCAB of the DTI.

Joint ventures involving foreign contractors may also be treated as a non-taxable corporation only if the member foreign contractor is covered by a special license as contractor by the PCAB of the DTI; and the construction project is certified by the appropriate Tendering Agency (government office) that the project is a foreign financed/internationally-funded project and that international bidding is allowed under the Bilateral Agreement entered into by and between the Philippine Government and the foreign/international financing institution pursuant to the implementing rules and regulations of Republic Act No. 4566 otherwise known as Contractor's License Law.

(6) Individuals who earn ₱250,000.00 and below from a lone income payor upon compliance with the following requirements:

a. The individual has executed a payee's sworn declaration of gross receipts in accordance with the format per attached Annex "B-2";

b. The sworn declaration has been submitted to the lone income payor/withholding agent on or before January 15 of each year or before the initial income payment, whichever is applicable.

Illustration 3: Mr. Wil, a messenger, was hired by Brgy. MRU Health Center, under a Job Order arrangement. His monthly pay is fixed at ₱15,000. He provided Brgy. MRU a notarized sworn declaration of gross receipts. Brgy. MRU is the lone income payor of Mr. Wil which was likewise indicated in the aforesaid sworn declaration.

Computation:
The income tax to be withheld shall be computed as follows -

Annual Income (P15,000 X 12)	₱ 180,000.00
Tax to be withheld	₱ 0.00

* Mr. Wil submitted to Brgy. MRU the notarized payee's sworn declaration stating that his gross receipts shall not exceed ₱250,000, and since the actual receipts for the year did not exceed the said amount, the income payment was not subjected to withholding. Brgy. MRU, a Local Government Unit (LGU), may also withhold business tax depending on the income tax regime selected by Mr. Wil as indicated in his sworn declaration."

SECTION. 5. Section 2.58 of RR No. 2-98, as amended, is hereby further amended to read as follows:

*"**SECTION 2.58. Returns and Payment of Taxes Withheld at Source.***

(A) ***Manner, Venue and Time of Filing of Withholding Tax Returns and Payment of Taxes Withheld at Source*** - Taxpayers mandated to electronically file and pay shall use the BIR's electronic system, while those not mandated has the option to either use the said electronic system, or file with the Authorized Agent Banks (AABs) under the jurisdiction of the Revenue District Office where they are registered. Withholding agents located at municipalities where there is no AAB, the returns shall be filed with the Revenue Collection Officer assigned in the said municipality. The filing of the withholding tax returns (BIR Form No. 1601EQ for creditable withholding tax and Form Nos. 1602 for final tax on interest on bank deposits, 1603 for final tax withheld on fringe benefits, and 1601FQ for all other final withholding taxes) and payment of the taxes withheld at source shall be made not later than the last day of the month following the close of the quarter during which the withholding was made.

For this purpose, the quarter shall follow the calendar quarter, e.g., for taxes withheld during the quarter ending March 31, the same shall be remitted by the withholding agent on or before April 30. The return filed shall be accompanied by the Quarterly Alphabetical List of Payees (QAP), reflecting the name of income payees, Taxpayer Identification Number (TIN), the amount of income paid segregated per month with total for the quarter (all income payments prescribed as subject to withholding tax under these regulations, whether actually subjected to withholding tax or not subjected due to exemption), and the total amount of taxes withheld, if any.

Considering that taxes withheld by the withholding agents are held in trust for the government and its availability is an imperious necessity to ensure sufficient cash inflow to the National Treasury, withholding agents shall file BIR Monthly Remittance Form (BIR Form No. 0619E and/or 0619F) every tenth (10th) day of the following month when the withholding is made, regardless of the amount withheld. For withholding agents using EFPS facility, the due date is on the fifteenth (15th) day of the following month. Withholding agents with zero remittance are still required to use and file the same form.

In the case of sale of shares of stocks not traded thru a local stock exchange and sale of real property considered as capital asset, the filing and payment of the tax due thereon shall be made within thirty (30) days after the sale or disposition using BIR Form No. 1707 and 1706, respectively. For sale of real property considered as ordinary asset, the remittance of tax withheld shall be made on or before the tenth (10th) day following the month of transaction using BIR Form No. 1606.

(B) ***Withholding Tax Statement for Taxes Withheld*** - Every payor required to deduct and withhold taxes under this subsection shall furnish each payee, a withholding

tax statement, in triplicate, within twenty (20) days from the close of the quarter. The prescribed form (BIR Form No, 2307 for creditable withholding tax and BIR Form 2306 for final withholding tax) shall be used, showing the monthly income payments made, the quarterly total, and the amount of taxes withheld. Provided, however, that upon request of the payee, the payor must furnish such statement, simultaneously with the income payment.

(C) ***Annual Information Return and Annual Alphabetical List of Payees for income tax withheld at source*** – The withholding agent is required to file with the concerned office of the LTS/RR/RDO where the withholding agent is registered, the following:

1. Annual Information Return of Creditable Taxes Withheld (Expanded)/Income Payments Exempt from Withholding Tax (BIR Form No. 1604E) including the corresponding Annual Alphabetical List of Payees - on or before March 1 of the following year in which payments were made; and

2. Annual Information Return on Final Income Taxes Withheld (BIR Form 1604F) including the corresponding Annual Alphabetical List of Payees – On or before January 31 of the following year in which payments were made."

SECTION 6. Section 2.78.1 of RR No. 2-98, as amended, is hereby further amended to read as follows:

"***SECTION 2.78.1. Withholding of Income Tax on Compensation Income. -***

(A) ***Compensation Income Defined***. - xxx

(1) Xxx

(2) Xxx

(3) Facilities and privileges of relatively small value. – xxx
The following shall be considered as "de minimis" benefits not subject to income tax as well as withholding tax on compensation income of both managerial, and rank and file employees:

(a) Monetized unused vacation leave credits of private employees not exceeding ten (10) days during the year;

(b) Monetized value of vacation and sick leave credits paid to government officials and employees;

(c) Medical cash allowance to dependents of employees, not exceeding ₱1,500 per employee per semester of ₱250 per month;

(d) Rice subsidy of ₱2,000 or one sack of 50kg. rice per month amounting to not more than ₱2,000;

(e) Uniform and clothing allowance not exceeding ₱6,000 per annum;

xxx xxx xxx

(B) ***Exemption from withholding tax on compensation***. - The following income payments are exempted from the requirement of withholding tax on compensation but may be subject to income tax depending on the nature/sources of income earned by the individual recipient.

xxx xxx xxx

(11) *Thirteenth month pay and other benefits*. –

(a) Thirteenth month pay equivalent to the mandatory one (1) month basic salary of official and employees of the government (whether national or local), including government-owned or controlled corporations, and/or private offices received after the twelfth month pay; and

(b) Other benefits such as Christmas bonus, productivity incentives, loyalty award, gift in cash or in kind, and other benefits of similar nature actually received by officials and employees of both government and private offices, including the Additional Compensation Allowance (ACA) granted and paid to all officials and employees of the National Government Agencies (NGAs) including State Universities and Colleges (SUCs), Government-Owned and/or Controlled Corporations (GOCCs), Government Financial Institutions (GFIs) and Local Government Units (LGUs).

The above stated exclusions under (a) and (b) shall cover benefits paid or accrued during the year, provided that the total amount shall not exceed ninety thousand pesos (₱ 90,000), which may be increased through rules and regulations issued by the Secretary of Finance, upon recommendation of the Commissioner, after considering among others, the effect on the same of the inflation rate at the end of the taxable year.

(12) *GSIS, SSS, Medicare and other contributions*. – GSIS, SSS, Medicare and Pag-Ibig contributions, and union dues of individual employees.

(13) *Compensation income of Minimum Wage Earners (MWEs) who work in the private sector and being paid the Statutory Minimum Wage (SMW), as fixed by Regional Tripartite Wage and Productivity Board (RTWPB)/National Wages and Productivity Commission (NWPC), applicable to the place where he/she is assigned, as well as the compensation of employees in the public sector who are paid not more than the SMW applicable to non-agricultural sector, as fixed by RTWPB/NWPC, applicable to the place where he/she is assigned.*

'Statutory Minimum Wage' (SMW) shall refer to the rate fixed by the Regional Tripartite Wage and Productivity Board (RTWPB), as defined by the Bureau of Labor and Employment Statistics (BLES) of the Department of Labor and Employment (DOLE). The RTWPB of each region shall determine the wage rates in the different regions based on established criteria and shall be the basis of exemption from income tax for this purpose.

The NWPC shall officially submit a Matrix of Wage Order by region, and any changes thereto, within ten (10) days after its effectivity to the Assistant Commissioner, Collection Service, for circularization in the BIR.

Aside from the SMW, the holiday pay, overtime pay, night shift differential pay, and hazard pay, earned by the aforementioned MWE shall likewise be covered by the above exemption. For purposes of these regulations, hazard pay shall mean the amount paid by the employer to MWEs who were actually assigned to danger or strife-torn areas, disease-infested places, or in distressed or isolated stations and camps, which expose them to great danger or contagion or peril to life. Any hazard paid to MWEs which does not satisfy the above criteria is deemed subject to income tax and consequently, withholding tax on the said hazard pay.

In case of hazardous employment, the employer shall indicate in the Alphabetical List of Employees, the MWEs who received the hazard pay, the period of employment, the amount of hazard pay, and the justification for such payment as certified by the concerned DOLE/allied agency, which certification is part of the attachment in the filing of the Annual Information Return (BIR Form 1604-C). In the case of employees under the public sector, the document to be attached is the Department of Budget Management (DBM) Circular related to such payment of hazard pay.

Additional compensation such as commissions, honoraria, fringe benefits, benefits in excess of the allowable statutory amount of ₱90,000.00, taxable allowances, and other taxable income given to an MWE by the same employer other than those which are expressly exempt from income tax shall be subject to withholding tax using the withholding tax table.

Likewise, MWEs receiving other income from other sources in addition to compensation income, such as income from other concurrent employers, from the conduct of trade, business, or practice of profession, except income subject to final tax, are subject to income tax only to the extent of income other than SMW, holiday pay, overtime pay, night shift differential pay, and hazard pay earned during the taxable year.

Any income subject to income tax may be subject to withholding tax; however, income exempt from income tax is consequently exempt from withholding tax. Further, income not subject to withholding tax does not necessarily mean that it is not subject to income tax.

Any reduction or diminution of wages for purposes of exemption from income tax shall constitute misrepresentation and therefore, shall result to the automatic disallowance of expense, i.e. compensation and benefits account, on the part of the employer. The offenders may be criminally prosecuted under existing laws.

(13) Compensation during the year not exceeding Two hundred fifty thousand pesos (₱250,000).

Illustration 4: Ms. Alona is employed in CSO Corporation. She received the SMW for 2018 in the total amount of ₱175,000, inclusive of the 13th month pay. In the same year, she also received overtime pay of ₱40,000 and night-shift differential of ₱25,000. She also received commission income from the same employer of ₱20,000, thus, total income received amounted to ₱260,000.

Computation:
The employer of Ms. Alona shall determine the nature of income payments. The amount to be subjected to income tax withholding shall be computed as follows -

Total Income received		₱ 260,000.00
Less: Income exempt from tax		
Basic SMW	₱175,000.00	
Overtime Pay	40,000.00	
Night Shift Differential	25,000.00	
Total Exempt Income as MWE		240,000.00
Taxable Income- Commission		₱ 20,000.00
Tax Due		
On not over P250,000.00 (₱20,000.00 x 0%)		₱ 0.00

* Taxpayer's income of SMW, overtime pay, and night shift differential pay are expressly exempt from income tax under the law and consequently from withholding tax.

* Commission income from the same employer is taxable, however, under the graduated income tax rates since it is less than ₱250,000, there is no tax due.

Illustration 5: Ms. Cyril is employed in MAFD Corporation and is also a part-time real estate agent for a real estate broker. In addition to the SMW of ₱180,000 she received from her employer, she likewise received ₱75,000 as commissions from her real estate dealings for the year 2018.

Computation:
The amount subject to income tax and withholding tax shall be computed depending on the income tax regime selected by Ms. Cyril, since she is

qualified to avail of such option (income from business/practice of profession did not exceed ₱3,000,000) and such option was reflected in the payee's sworn declaration given by the taxpayer to the payor/withholding tax agent-real estate broker, as follows:

1. Under the graduate income tax (IT) regime:

Total Income received	₱ 255,000.00
Less: Income exempt from income tax - SMW	180,000.00
Taxable Income- Commission	₱ 75,000.00
Tax Due	
On not over ₱250,000.00 (₱75,000.00 x 0%)	₱ 0.00

2. Under the 8% IT regime:

Total Income received	₱ 255,000.00
Less: Income exempt from income tax- SMW	180,000.00
Taxable Income- Commission	₱ 75,000.00
Tax Due	
₱75,000.00 x 8%	₱ 6,000.00

* Taxpayer's income as MWE does not exceed P250,000; hence, not subject to withholding tax.

* Since taxpayer is a mixed income earner and has received income from other sources in addition to her compensation income, the commission received during the taxable year is subject to income tax and consequently, to withholding tax.

* If Ms. Cyril selected the graduated income tax regime, her commission income is subject to income tax at 0% since it did not exceed P250,000 and she is also subject to business tax. However, if she selected the 8% income tax regime, she is liable for income tax amounting to P6,000, but this is in lieu of the graduated income tax and the percentage tax under Section 116 of the Tax Code, as amended."

SECTION 7. Section 2.79 of RR No. 2-98, as amended, is hereby further amended to read as follows:

"***SECTION 2.79. Income Tax Collected at Source on Compensation Income.***

(A) ***Requirement of Withholding***. - Every employer must withhold from compensation paid an amount computed in accordance with these Regulations, whether the employee is a citizen or an alien, except non-resident alien not engaged in trade or business. Provided, that no withholding of tax shall be required on the SMW, including holiday pay, overtime pay, night shift differential and hazard pay of MWEs in the private/public sectors as defined in these Regulations. Provided,

further, that an employee who receives additional compensation such as commissions, honoraria, fringe benefits, benefits in excess of the allowable statutory amount of ₱90,000.00, taxable allowances and other taxable income other than the SMW, holiday pay, overtime pay, hazard pay, and night shift differential pay, shall be taxable only on such additional compensation received.

(B) ***Computation of Withholding Tax on Compensation Income in General***. The procedures prescribed below shall govern the computation of withholding tax on the taxable compensation income of the employees. *Provided, however*, that taxable fringe benefits received by employees other than rank and file, as defined in the Labor Code of the Philippines, as amended, shall be subject to Fringe Benefits Tax pursuant to Section 33 of the Tax Code, as amended.

1. ***Use of Withholding Tax Tables.*** – In general, every employer making payment of compensation shall deduct and withhold from such compensation a tax determined in accordance with the prescribed withholding tax table, Annex "D" for compensation paid from January 1, 2018 until December 31, 2022 (as published under RMC 1-2018 dated January 4, 2018) and Annex "E" for compensation paid starting January 1, 2023.

   xxx xxx xxx

   If the compensation is paid other than daily, weekly, semi-monthly or monthly, the tax to be withheld shall be computed as follows:

   (a) Annually – use the annualized computation referred to in Sec. 2.79 (B)(5)(b) of these regulations;

   (b) Quarterly and semiannually – divide the compensation by three (3) or six (6) respectively, to determine the average monthly compensation. Use the monthly withholding tax table to compute the tax, and the tax so computed shall be multiplied by three (3) or six (6) accordingly.

2. ***Components of Withholding Tax Table. -***

   a. Column 1 pertains to the following details:

      i. Payroll period
      ii. Compensation range
      iii. Prescribed withholding tax

   b. Columns 2 to 7 show the tax due for each of the compensation range identified

3. ***Steps to determine the amount of tax to be withheld.***

   Step 1. Determine the total monetary and non-monetary compensation paid to an employee for the payroll period: monthly, semi-monthly, weekly or daily,

as the case may be, excluding non-taxable benefits and mandatory contributions.

Classify taxable compensation into regular and supplementary compensation. Regular compensation includes basic salary, fixed allowances for representation, transportation and other allowances paid to an employee per payroll period. Supplementary compensation includes payments to an employee in addition to the regular compensation, such as commission, overtime pay, taxable retirement, taxable bonus, and other taxable benefits, with or without regard to a payroll period.

Representation and Transportation Allowances (RATA) granted to public officers and employees under the General Appropriations Act and the Personnel Economic Relief and Allowance (PERA) which essentially constitute reimbursement for expenses incurred in the performance of government personnel's official duties shall not be subject to income tax and consequently to withholding tax.

Step 2. Use the appropriate table in Annex "D" (for compensation paid from January 1, 2018 to December 31, 2022) or Annex "E" (for compensation paid from January 1, 2023 onwards) and select the applicable payroll period.

Step 3. Determine the compensation range of the employee by taking into account only the total amount of taxable regular compensation income and apply the applicable tax rates prescribed thereon.

Step 4. Compute the withholding tax due by adding the tax predetermined in the compensation range as indicated on the column used and the rate of tax on the excess of the total compensation over the minimum of the compensation range.

4. ***Sample Computations on the use of the Withholding Tax Tables.***

The following are sample computations of withholding tax on compensation using the prescribed withholding tax tables:

Illustration 6: Ms. Joc, an employee of MCUD Inc., is receiving daily compensation in the amount of P2,500, net of mandatory contributions.

Computation:
By using the daily withholding tax table, the withholding tax beginning January 2018 is computed by referring to compensation range under column 4 which shows a predetermined tax of ₱356.16 on ₱2,192 plus 30% of the excess of Compensation Range (Minimum) amounting to ₱308 (₱2,500.00 – ₱2,192.00),

which is ₱92.40. As such, the withholding tax to be withheld by the employer shall be ₱448.56.

Total taxable compensation	₱ 2,500.00
Less: Compensation Range (Minimum)	2,192.00
Excess	₱ 308.00

Withholding tax shall be computed as follows:

Predetermined Tax on ₱2,192.00	₱ 356.16
Add: Tax on the excess (₱308.00 x 30%)	92.40
Total daily withholding tax	₱ 448.56

Illustration 7: Ms. Haidee, an employee of GEAL Corp., is receiving weekly compensation in the amount of ₱9,500, net of mandatory contributions.

Computation:
By using the weekly withholding tax table, the withholding tax beginning January 2018 is computed by referring to compensation range under column 3 which shows a predetermined tax of ₱576.92 on ₱7,692 plus 25% of the excess of Compensation Range (Minimum) amounting to ₱1,808 (₱9,500.00 – ₱7,692.00), which is ₱452. As such, the withholding tax to be withheld by the employer shall be ₱1,028.92.

Total taxable compensation	₱ 9,500.00
Less: Compensation Range (Minimum)	7,692.00
Excess	₱ 1,808.00

Withholding tax shall be computed as follows:

Predetermined Tax on ₱7,692.00	₱ 576.92
Add: Tax on the excess (₱1,808.00 x 25%)	452.00
Total weekly withholding tax	₱ 1,028.92

Illustration 8: Ms. Rose, an employee of JMLH Company, is receiving semi-monthly compensation in the amount of ₱15,500, net of mandatory contributions.

Computation:
By using the semi-monthly withholding tax table, the withholding tax beginning January 2018 is computed by referring to compensation range under column 2 which shows a predetermined tax of ₱0 on ₱10,417 plus 20% of the excess of Compensation Range (Minimum) amounting to ₱5,083 (₱15,500.00 – ₱10,417.00), which is ₱1,016.60. As such, the withholding tax to be withheld by the employer shall be ₱1,016.60.

Total taxable compensation	₱ 15,500.00
Less: Compensation Range (Minimum)	10,417.00
Excess	₱ 5,083.00

Withholding tax shall be computed as follows:

Predetermined Tax on ₱10,417.00	₱ 0.00
Add: Tax on the excess (₱5,083.00 x 20%)	1,016.60
Total semi-monthly withholding tax	₱ 1,016.60

Illustration 9: Ms. Lyn, an employee of MAG Corp. is receiving regular monthly compensation in the amount of ₱165,000, net of mandatory contributions, with supplemental compensation in the amount of ₱5,000 for the month.

Computation:
By using the monthly withholding tax table, the withholding tax beginning January 2018 is computed by referring to compensation range under column 4 which shows a predetermined tax of ₱10,833.33 on ₱66,667 plus 30% of the excess of Compensation Range (Minimum) amounting to ₱103,833 (₱165,000.00 – ₱ 66,667.00 + ₱5,000), which is ₱30,999.90. As such, the withholding tax to be withheld by the employer shall be ₱43,659.89.

Total taxable compensation	₱ 165,000.00
Less: Compensation Range (Minimum)	66,667.00
Excess	₱ 98,333.00
Add: Supplemental Compensation	5,000.00
Total	₱ 103,333.00

Withholding tax shall be computed as follows:	
On ₱66,667.00	₱ 10,833.33
On Excess (₱165,000.00 - ₱66,667.00 + Supplemental compensation of ₱5,000.00) x 30%	30,999.90
Total monthly withholding tax	₱ 41,833.23

5. ***Use of Exceptional Computations***

(a) *Cumulative Average Method.* – If in respect of a particular employee, the regular compensation is exempt from withholding tax because the amount thereof is below the compensation level, but supplementary compensation is paid during the calendar year; or the supplementary compensation is equal to or more than the regular compensation to be paid; or the employee was newly hired and had a previous employer/s within the calendar year, other than the present employer doing this cumulative computation, the present employer shall determine the tax to be deducted and withheld in accordance with the cumulative average method provided hereunder:

Step 1. Add the amount of taxable regular and supplementary compensation to be paid to an employee for the payroll period subject of computation to the sum of the taxable regular and supplementary compensation since the beginning of the calendar year including the

compensation paid by the previous employers within the same calendar year, if any;

Step 2. Divide the aggregate amount of compensation computed in step 1 by the number of payroll period to which the amount relates;

Step 3. Compute the tax to be deducted and withheld on the cumulative average compensation determined in Step No. (2) in accordance with the withholding tax table;

Step 4: Multiply the tax computed in Step No. (3) by the number of payroll period to which it relates;

Step 5. Determine the excess, if any, of the amount of tax computed in Step No. (4) over the total amount of tax already deducted and withheld from the beginning payroll period to the last payroll period, including that withheld by the previous employer/s within the calendar year, if any. The excess, as computed, shall be deducted and withheld from the compensation to be paid for the last payroll period of the current calendar year.

The cumulative average method, once applicable to a particular employee at any time during the calendar year, shall be the same method to be consistently used for the remaining payroll period/s of the same calendar year.

xxx xxx xxx

Illustration 10: The regular compensation is exempt from withholding tax but supplementary compensation (commission) is paid during the calendar year.

Ms. Rose received the following compensation beginning January, 2018.

Month	*Regular Compensation*	*Supplementary Compensation*	*Total Compensation*
January	P15,000	P20,000	P35,000
February	15,000	15,000	30,000
March	15,000	25,000	40,000

Computation:
Using the Revised Withholding Tax Table in Annex "D", the taxes to be withheld for each month following the step-by-step procedures enumerated above:

1.	For January	P35,000.00 ÷ 0	=	P 35,000.00
	For February	35,000.00 ÷ 30,000.00	=	65,000.00
	For March	35,000.00 + 30,000.00 ÷ 40,000.00	=	105,000.00
2.	For January	P 35,000.00 ÷ 1	=	P 35,000.00
	For February	65,000.00 ÷ 2	=	32,500.00
	For March	105,000.00 ÷ 3	=	35,000.00

3. For January:

Tax on P33,333		P 2,500.00
Tax on excess	(P35,000 – 33,333) x 25%	416.75
Tax on P35,000		P 2,916.75

For February:

Tax on P20,833	P 0.00
Tax on excess (P32,500 – 20,833) x 20%	2,333.40
Tax on P32,500	P 2,333.40

For March:

Tax on P33,333	P 2,500.00
Tax on excess (P35,000 – 33,333) x 25%	416.75
Tax on P35,000	P 2,916.75

4.

For January	P2,916.75 x 1	=	P 2,916.75
For February	2,333.40 x 2	=	4,666.80
For March	2,916.75 x 3	=	8,750.25

5. Tax to be withheld monthly:

For January	P2,916.75 – 0	=	P 2,916.75
For February	4,666.80 – 2,916.75	=	1,750.05
For March	8,750.25 – 4,666.80	=	4,083.45

Illustration 11: Supplementary compensation is equal or more than the regular compensation received.

Ms. Aimee received the following compensation beginning January, 2018.

Month	*Regular Compensation*	*Supplementary Compensation*	*Total Compensation*
January	P15,000	P15,000	P30,000
February	15,000	15,000	30,000
March	15,000	20,000	35,000

Computation:

Using the Revised Withholding Tax Table in Annex "D", the taxes to be withheld for each month following the step-by-step procedures previously enumerated:

1.

For January	P30,000.00 + 0	=	P 30,000.00
For February	30,000.00 + 30,000.00	=	60,000.00
For March	30,000.00 + 30,000.00 + 35,000.00	=	95,000.00

2.

For January	P 30,000.00 ÷ 1	=	P 30,000.00
For February	60,000.00 ÷ 2	=	30,000.00
For March	95,000.00 ÷ 3	=	31,666.67

3. For January:

Tax on P20,833	P 0.00
Tax on excess (P30,000 – 20,833) x 20%	1,833.40

	Tax on P30,000			P 1,833.40
	For February:			
	Tax on P20,833			P 0.00
	Tax on excess (P30,000 – 20,833) x 20%			1,833.40
	Tax on P30,000			P 1,833.40
	For March:			
	Tax on P20,833			P 0.00
	Tax on excess (P31,666.67 – 20,833) x 20%			2,166.73
	Tax on P31,666.67			P 2,166.73
4.	For January	P1,833.40 x 1	=	P 1,833.40
	For February	1,833.40 x 2	=	3,666.80
	For March	2,166.73 x 3	=	6,500.19
5.	Tax to be withheld monthly:			
	For January	P1,833.40 – 0	=	P 1,833.40
	For February	3,666.80 – 1,833.40	=	1,833.40
	For March	6,500.19 – 3,666.80	=	2,833.39

Illustration 12: A newly hired employee with previous employer within the calendar year 2018.

Ms. Leni was hired by JPL Corporation on July 6, 2018. Her total taxable income per month is P35,000. She was previously employed by ENA Company from January to June 30, 2018 with a monthly taxable income of P30,000 or P180,000 for six (6) months. Per BIR Form No. 2316 (Certificate of Compensation Payment/Tax Withheld) issued by the previous employer, which was presented by Ms. Leni to her present employer, the total tax withheld is P11,000.40. In computing for the tax withheld on the compensation of Ms. Leni starting the month of July 6, 2018, JPL Corporation shall use the cumulative average method.

Month	*Present Compensation*	*Total Previous Compensation*	*Total Taxable Compensation*
July 6	P 35,000	P180,000	P215,000
August	35,000		35,000
September	35,000		35,000
October	35,000		35,000
November	35,000		35,000
December	35,000		35,000
Total	P210,000	P180,000	P390,000

Computation:

Using the Revised Withholding Tax Table in Annex "D", the taxes to be withheld for each month following the step-by-step procedures previously enumerated:

1.	For July 6	P 35,000 + 180,000	=	P215,000.00
	For August	215,000 + 35,000	=	250,000.00
	For September	215,000 + 35,000 – 35,000	=	285,000.00
	For October	215,000 + 35,000 – 35,000 + 35,000	=	320,000.00

	For November	215,000 + 35,000 + 35,000 + 35,000 + 35,000	=	355,000.00

2.	For July 6	P215,000.00 ÷ 7	=	P 30,714.29
	For August	250,000.00 ÷ 8	=	31,250.00
	For September	285,000.00 ÷ 9	=	31,666.67
	For October	320,000.00 ÷ 10	=	32,000.00
	For November	355,000.00 ÷ 11	=	32,272.73

3. For July 6:

Tax on P 20,833	P 0.00
Tax on Excess (P30,714.29 – 20,833) x 20%	1,976.25
Tax on P 30,714.29	P 1,976.25

For August:

Tax on P20,833	P 0.00
Tax on excess (P31,250 – 20,833) x 20%	2,083.40
Tax on P 31,250	P 2,083.40

For September:

Tax on P20,833	P 0.00
Tax on excess (P31,666.67 – 20,833) x 20%	2,166.73
Tax on P31,666.67	P 2,166.73

For October:

Tax on P20,833	P 0.00
Tax on excess (P32,000 – 20,833) x 20%	2,233.40
Tax on P32,000	P 2,233.40

For November:

Tax on P20,833	P 0.00
Tax on excess (P32,272.73 – 20,833) x 20%	2,287.95
Tax on P32,272.73	P 2,287.95

4.	For July 6	P1,976.25 x 7	=	P 13,833.75
	For August	2,083.40 x 8	=	16,667.20
	For September	2,166.73 x 9	=	19,500.57
	For October	2,233.40 x 10	=	22,334.00
	For November	2,287.95 x 11	=	25,167.45

5.	For July 6	P13,833.75 – 11,000.40	=	P 2,833.35
	For August	16,667.20 – 13,833.75	=	2,833.45
	For September	19,500.57 – 16,667.20	=	2,833.37
	For October	22,334.00 – 19,500.57	=	2,833.43
	For November	25,167.45 – 22,334.00	=	2,833.45

(b) ***Annualized withholding tax method.*** – (1) When the employer-employee relationship is terminated before end of the calendar year; and (2) when computing for the year-end adjustment, the employer shall determine the

amount to be withheld from the compensation on the last month of employment or in December of the current calendar year in accordance with the following procedures:

Step 1. Determine the taxable regular and supplementary compensation paid to the employee for the entire calendar year.

Step 2. If the employee has previous employment/s within the year, add the amount of taxable regular and supplementary compensation paid to the employee by the present employer doing the annualized computation to the taxable compensation income received from previous employer/s during the calendar year.

(a) When the employer-employee relationship is terminated before December – The taxable regular and supplementary compensation income shall be the amount paid since the beginning of the current calendar year to the termination of employment;

(b) Year-end adjustment- The taxable regular and supplementary compensation income shall be the amount paid since the beginning of the current calendar year to December;

(c) Taxable fringe benefits received by employees holding managerial or supervisory positions shall be subject to a final fringe benefit tax as prescribed in Section 2.57.1(G) hereof. Hence, the same shall not form part of the taxable supplementary compensation of managers and supervisors subject to tax using the withholding tax tables.

Step 3. Compute the amount of tax on the amount arrived in Step 2, in accordance with the applicable schedules, as follows**:**

a. For compensation income earned for taxable years 2018 to 2022:

RANGE OF TAXABLE INCOME		**TAX DUE = a + (b x c)**		
OVER	**NOT OVER**	**BASIC AMOUNT (a)**	**ADDITIONAL RATE (b)**	**OF EXCESS OVER (c)**
-	250,000.00	-		-
250,000.00	400,000.00	-	20%	250,000.00
400,000.00	800,000.00	30,000.00	25%	400,000.00
800,000.00	2,000,000.00	130,000.00	30%	800,000.00
2,000,000.00	8,000,000.00	490,000.00	32%	2,000,000.00
8,000,000.00	-	2,410,000.00	35%	8,000,000.00

b. For compensation income earned for taxable year 2023 and onwards:

RANGE OF TAXABLE	**TAX DUE = a + (b x c)**

INCOME				
OVER	NOT OVER	BASIC AMOUNT (a)	ADDITIONAL RATE (b)	OF EXCESS OVER (c)
-	250,000.00	-		-
250,000.00	400,000.00	-	15%	250,000.00
400,000.00	800,000.00	22,500.00	20%	400,000.00
800,000.00	2,000,000.00	102,500.00	25%	800,000.00
2,000,000.00	8,000,000.00	402,500.00	30%	2,000,000.00
8,000,000.00	-	2,202,500.00	35%	8,000,000.00

Step 4. *(formerly Step 6)* Determine the deficiency or excess, if any, of the tax computed in Step 3 over the cumulative withholding tax already deducted and withheld since the beginning of the current calendar year. The deficiency withholding tax (when the amount of tax computed in Step 3 is greater than the amount of cumulative tax already deducted and withheld or when no tax has been withheld from the beginning of the calendar year) shall be withheld from the last payment of compensation for the calendar year. If the deficiency withholding tax is more than the amount of the last compensation to be paid to an employee, the employer shall be liable to pay the amount of tax which cannot be withheld from the employee's last compensation for the year. The obligation of the employee to the employer arising from the advances made by the employer of the amount of the required tax is a matter of settlement between the employee and employer.

The excess withholding tax (when the amount of cumulative tax already deducted and withheld is greater than the tax computed in Step 3) shall be credited or refunded to the employee not later than January 25 of the following year. However, in case of termination of employment before December, the refund shall be given to the employee at the payment of the last compensation during the year. In return, the employer is entitled to deduct the amount refunded to the employee/s from the remittable amount of taxes withheld from compensation income for the current month in which the refund was made, and in the succeeding months thereafter until the amount refunded by the employer is fully repaid.

The annualized computation done for each employee shall be reflected by the employer at the alphabetical list attached to BIR Form No. 1604C.

Illustration 13: Mr. Bembem receives ₱120,000 as monthly regular compensation (net of SSS/GSIS, PHIC, HDMF employee share only) starting January 1, 2018 from AMBS Company. On June 1, 2018, he filed his resignation effective June 30, 2018. He was unemployed for the rest of the year. The tax withheld from January 1 to May 31, 2018 was ₱134,164.50.

Computation:
For the period of employment -

Total Regular Compensation (Jan 1 to May 31, 2018)	₱ 600,000.00
Add: Regular Compensation to be received on June	120,000.00

Total Taxable Compensation Income (Jan-June, 2018)	₱ 720,000.00
Total Income Tax Due:	
On ₱400,000.00	₱ 30,000.00
Tax on Excess (₱720,000.00-₱400,000.00) x 25%	80,000.00
Total tax due	₱ 110,000.00
Less: Tax Withheld from January to May	134,164.50
Amount to be refunded by the employer to Mr. Bembem	(₱ 24,164.50)

Illustration 14: Mr. Joey receives ₱120,000 as monthly regular compensation (net of SSS/GSIS, PHIC, HDMF- all are employee share only) starting January 1, 2018 from CCF Corp. On June 1, 2018, he filed his resignation effective June 30, 2018 and was subsequently re-employed in EBQ Company on July 1, 2018 with a monthly compensation of ₱130,000. He furnished his new employer with the BIR Form 2316 from CCF Corp., his old employer, which showed that the amount he received from the said previous employer was ₱720,000 with tax withheld of ₱134,164.50. On December 15, 2018, he received commissions of ₱15,000 from his new employer. His new employer withheld ₱178,997.40 from his income.

Computation:

Total Compensation Received from previous employer (Jan 1 to Jun 30, 2018)	₱ 720,000.00
Add: Regular Compensation from the new employer (Jul 1 to Dec 31, 2018)	780,000.00
Total Taxable Compensation Income	₱ 1,500,000.00
Add: Supplementary Income (Commissions)	15,000.00
Total taxable Compensation Income	₱ 1,515,000.00
Tax Due:	
On ₱800,000.00	₱ 130,000.00
On Excess (₱1,515,000.00-₱800,000.00) x 30%	214,500.00
Total tax due	₱ 344,500.00
Less: Tax withheld (₱134,164.50 +₱178,997.40)	313,161.90
Amount to be deducted by EBQ Company from Mr. Joey for December 2018	₱ 31,338.10

Illustration 15: *(YEAR-END ADJUSTMENTS COMPUTATION)* For taxable year 2018, EBQ Company's records reflected the following:

1. Ms. Grace received the following compensation for the year:

a. Monthly Basic Salary	₱ 50,000.00
b. Overtime pay for November	10,000.00
c. Thirteenth Month Pay	50,000.00
d. Other Benefits	10,000.00
e. Withholding Tax (Jan-Nov)	73,334.25

Computation:

Total Income Received for the year:		
Basic salary (₱50,000 x 12 mos.)		₱ 600,000.00
Overtime pay (November)		10,000.00
13th Month pay		50,000.00
Other Benefits		10,000.00
Total Income Received for the year		670,000.00
Less: Non-Taxable Income		
13th Month pay	50,000.00	
Other benefits	10,000.00	60,000.00
Total taxable Compensation Income		₱ 610,000.00

Tax Due:	
On ₱400,000.00	₱ 30,000.00
On excess (₱610,000.00 - ₱400,000.00) x 25%	52,500.00
Total Tax due	82,500.00
Less: Tax withheld (January – November)	73,334.25
Amount to be withheld in December 2018	₱ 9,165.75

2. Mr. Gerry, hired on July 1, 2018, received the following compensation for the year:

a. Monthly Basic Salary	₱ 25,000.00
b. Thirteenth Month Pay	25,000.00
c. Other Benefits	5,000.00
d. Salary from previous employer (Jan-May 2018)	125,000.00
e. Withholding tax from previous employer	4,167.00
f. Withholding tax (Jul-Nov)	4,167.00

Computation:

Total Income Received for the year:		
Salary from previous employer		₱ 125,000.00
Salary from present employer		150,000.00
13th Month pay		25,000.00
Other Benefits		5,000.00
Total Income Received for the year		305,000.00
Less: Non-Taxable Income		
13th Month pay	25,000.00	
Other benefits	5,000.00	30,000.00
Total taxable Compensation Income		₱ 275,000.00

Tax Due:		
On ₱250,000.00		₱ 0.00
On excess (₱275,000.00 - ₱250,000.00) x 20%		5,000.00
Total Tax due		₱ 5,000.00
Less: Tax withheld by previous employer (January – May)	4,167.00	
Tax withheld by present employer (July - November)	4,167.00	8,334.00
Amount to be refunded to Mr. Gerry		(₱ 3,334.00)

* The annualized computation done for each employee shall be reflected by the employer at the alphabetical list of employees required to be attached to BIR Form No. 1604C. The list shall be submitted in electronic form.

(c) If the compensation is paid other than daily, weekly, semi-monthly or monthly, compute the tax to be deducted and withheld as follows:

a) Annually – xxx
b) Quarterly and semi-annually – xxx
c) Bi-weekly – xxx
d) Miscellaneous - xxx

(C) Computation of Withholding Tax on Compensation and Benefits Received by Employees other than Rank and File Employees – xxx

(1) Determine the total monetary and non-monetary compensation, segregating gross receipts which include thirteenth (13th) month pay, productivity incentives, Christmas bonus and fringe benefits received by the employee per payroll period. When computing under the annualized computation, the total monetary and non-monetary compensation shall be that received for the calendar year. Gross benefits received by officials and employees of public and private entities shall be exempted from income tax and withholding tax; provided that the amount of exemption shall not exceed ninety thousand pesos (₱90,000.00).

(2) Segregate the taxable from the non-taxable compensation (excluding the fringe benefits) paid to the employee. The taxable income refers to all remuneration paid to an employee not otherwise exempted by law from income tax and consequently from withholding tax. The non-taxable income are those which are specifically exempted from income tax by the Code or other special laws as listed in Sec. 2.78.1(B) hereof (e.g. benefits not exceeding (₱90,000.00), non-taxable retirement benefits and separation pay);

(3) Segregate the taxable fringe benefit and subject the same to withholding pursuant to Subsection D of this section of the Regulations;

(4) Compute withholding tax on the taxable regular and supplementary compensation in accordance with the procedures prescribed in Sec. 2.79 (B)(1) of these regulations, for purposes of withholding per payroll period and for purposes of computing under the cumulative average method or for the year-end adjustment.

(D) ***Computation of Withholding Tax on Fringe Benefit-***

(1) ***Final Withholding tax on Fringe Benefits paid to employees other than rank and file.*** -There shall be imposed a final tax of thirty-five percent (35%) on the grossed-up monetary value of fringe benefits granted or furnished by the employer to his employees (except rank and file employees) unless the fringe benefits is required by the nature of or necessary to the trade, business or

profession of the employer, and when the fringe benefit is for the convenience and advantage of the employer.

The fringe benefit tax shall be paid by the employer in the same manner as provided in Sec. 2.58 of these Regulations. It shall not form part of the gross income of the employee.

(2) ***Grossed-up monetary value of Fringe Benefits.*** – In general the grossed-up monetary value of the fringe benefit shall be determined by dividing the monetary value of the fringe benefit by sixty-five (65%). The grossed-up monetary value of the fringe benefits furnished to the employees who are taxable under subsection B of Section 25 of the Tax Code, as amended, shall be determined by dividing the monetary value of the fringe benefit by the difference between one hundred percent (100%) and the applicable rates of income tax prescribed on the aforesaid sub-section of Section 25, to wit:

Subsection (B) – Twenty-five percent on income derived from sources within the Philippines by a non-resident alien individual not engaged in trade or business in the Philippines.

(3) ***Non-Taxable Fringe Benefits*** - xxx

xxx xxx xxx

Illustration 16: WBV Company (a domestic employer/company) granted Ms. Leni (a Filipino branch manager employee), in addition to her basic salaries, ₱5,000 cash per quarter for her personal membership fees at Country Golf Club. The Fringe Benefits Tax (FBT) shall be computed as follows:

Monetary value of fringe benefit:	₱	5,000.00
Percentage divisor applicable:		65%
FBT rate:		35%

FBT= (Monetary value of fringe benefit ÷ 65%) x 35%
FBT= (₱5,000.00 ÷ 65%) x 35%
FBT= ₱7,692.31 x 35%
FBT= ₱2,692.31

Illustration 17: Same facts but the employee is a non-resident alien individual not engaged in trade or business within the Philippines:

Monetary value of fringe benefit:	₱	5,000.00
Percentage divisor applicable:		75%
Fringe benefit tax rate:		25%

FBT= (Monetary value of fringe benefit ÷ 75%) x 25%
FBT= (₱5,000.00 ÷ 75%) x 25%
FBT= ₱6,666.67 x 25%
FBT= ₱1,666.67

(E) ***Computation of Withholding Tax on Employees of Area or Regional Headquarters of multinational corporations, ROHQs, OBUs and Petroleum Service contractors and sub-contractors*** - the manner and regular rates of withholding tax on citizens and resident individuals under Section 2.79(B) hereof shall apply.

(F) ***Requirement for Deductibility.*** – xxx

(G) ***Tax Paid by Recipient.*** – xxx

(H) ***Non-Deductibility of Tax and Credit for Tax Withheld.*** – xxx

xxx xxx xxx"

Note: Section 2.79 (I) of RR No. 2-98, as amended, is deleted.

SECTION 8. Section 2.79.1 of RR No. 2-98, as amended, is hereby further amended to read as follows:

"***SECTION 2.79.1. Application for Registration for Individuals Earning Compensation Income (BIR Form No. 1902)***. – The application for registration of employees shall be accomplished by both employer and employee relating to the following information and other requirements:

(A) **Employee**. –

(1) Required Information

(a) Name/Taxpayer's Identification Number (TIN)/Residential Address of Employee /Other information required as stated in BIR Form 1902;

(b) Civil Status of Employee whether single, married, legally separated, widow or widower;

(c) Occupational Status of spouse of the employee. – If the employee is legally married, the name and TIN, if any, of the spouse, and whether said spouse is employed locally or abroad, unemployed or engaged in trade or business;

(2) Required forms and attachments. –

The taxpayer shall file an application for registration (BIR Form 1902). To establish identity and status, taxpayer is required to attach the following documents, if applicable:

(a) Any identification issued by an authorized government body (e.g. birth certificate, passport, driver's license) that shows the name, address, and birthdate of the applicant; In case of alien employee, Passport and Working Permit or photocopy of duly received Application For Alien Employment

Permit (AEP) by the Department of Labor and Employment (DOLE);

(b) Copy of Marriage contract, if married;

(c) Other documentary evidence to support employees' identification, where the above documents are not available.

(3) Concurrent Multiple Employments. – An employee who is employed concurrently by two or more employers within the same period of time during the taxable year shall file the application for registration (BIR Form no. 1902) with the main employer (employer to whom the said employee's service is render for most of the time during the taxable year) and shall furnish a copy of the duly received application with the secondary employers (2nd, 3rd, etc. employers). The employed husband and wife shall each file a separate application with their respective employers;

(4) Successive Multiple Employment – An employee who transferred to another employer during the taxable year, shall furnish the concerned new employer a copy of the Certificate of Compensation Payment/Tax Withheld (BIR Form no. 2316) for compensation payment with or without withholding tax during the taxable/calendar year issued by previous employer/s.

(B) **Employer**. – The employer with whom the Application for Registration (BIR Form No. 1902) is filed, must indicate the date of receipt thereon and accomplish Part IV of the said Application pertaining to Employer's Information such as TIN, Employer's Registered Name, and other relevant information.

(C) **Procedures for the filing of the Application for Registration (BIR Form No. 1902) and/or Application for Registration Information Update (BIR Form No. 1905).**

(1) All employers shall require their concerned employees to accomplish in triplicate the Application for Registration BIR Form 1902 (if the employee does not have existing TIN) or Application for Update of Registration BIR Form 1905 (if the employee has existing TIN and/or registered outside the RDO of the employer or if update of the employer's information), distributed as follows:

(1.1) Original copy- RDO;
(1.2) Duplicate- employer; and
(1.3) Triplicate- employee

The said forms shall be accomplished and submitted based on the following manner:

(a) New employee/s shall accomplish the Application for Registration for Individuals Earning Compensation Income (BIR Form No. 1902) and submit the same to the employer. The employer shall file the fully

accomplished registration form of employees registering for the first time to the BIR within ten (10) days from the date of employment or secure the TIN of new employees using the eRegistration System;

(b) In case of changes in the information data in the Application for Registration (BIR Form No. 1902) previously submitted by the employee, such as changes in employment, multiple employment status and amount of compensation income, an Application for Registration Information Update (BIR Form No. 1905) reflecting the changes, together with the required documentary evidence of changes, must be submitted to the employer within ten (10) days after such change. The employer shall then make the necessary adjustments on the withholding tax of the employee based on the new information;

(2) The employer shall transmit all copies of the completely filled-out Application for Registration Information Update (BIR Form No. 1905) to the concerned office of the LTS/RR/RDO where the employer is registered, on or before the last day of the month of receipt from the employee. The RDO or his duly authorized representative, where the employer is registered, shall receive and stamp the three copies. The triplicate copy duly stamped received by the BIR shall be given to the employee.

Registration and information updates of employees receiving purely compensation income shall follow the existing policies and procedures thereon."

SECTION 9. Section 2.79.2 of RR No. 2-98, as amended, is hereby further amended to read as follows:

"***SECTION 2.79.2. Failure to file Application for Registration (BIR Form No. 1902)*** – Where an employee, in violation of these regulations either fails or refuses to file an Application for Registration (BIR Form No. 1902) together with the required attachments, the employer shall withhold the taxes prescribed under the revised withholding tax table (Annex "D" or "E", whichever is applicable)."

SECTION 10. Section 2.79.4 of RR No. 2-98 , as amended, is hereby further amended to read as follows:

"***SECTION 2.79.4. Husband and Wife*** – Where both husband and wife are each recipients of compensation either from the same or different employers, taxes shall be withheld separately in accordance with the applicable revised withholding tax table (Annex "D" or "E")."

SECTION 11. Section 2.80 of RR No. 2-98, as amended, is hereby further amended to read as follows:

"***SECTION 2.80. Liability for Tax. –***

(A) ***Employer*** –

xxx xxx xxx

(C) ***Additions to Tax.-***

(1) Xxx

xxx xxx xxx

(2) Interest – There shall be assessed and collected on any unpaid amount of tax, interest at the rate of double the legal interest rate for loans or forbearance of any money in the absence of an express stipulation set by the Bangko Sentral ng Pilipinas from the date prescribed for payment until the amount is fully paid. Provided, that in no case shall the deficiency and the delinquency interest prescribed under Subsections (B) and (C) hereof, be imposed simultaneously.

(3) Deficiency Interest – Any deficiency in the tax due, as the term is defined in this Code, shall be subject to the interest prescribed in Subsection (A) hereof, which interest shall be assessed and collected from the date prescribed for its payment until the full payment thereof, or upon issuance of a notice and demand by the Commissioner of Internal Revenue, whichever comes earlier.

If the withholding agent is the government or any of its agencies, political subdivisions or instrumentalities or a government-owned or controlled corporation, the employee thereof responsible for the withholding and remittance of tax shall be personally liable for the surcharge and interest imposed herein.

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SECTION 12. Section 2.83.1 of RR No. 2-98, as amended, is hereby further amended to read as follows:

"SECTION 2.83.1. Employees Withholding Statements (BIR Form 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 whom taxes were withheld a Certificate of Compensation Payment and 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. The said BIR Form No. 2316 is also required to be issued by every employer to employees classified as MWEs and to other employees whose compensation were not subjected to withholding tax.

The employer shall prepare BIR Form No. 2316 in triplicate, which shall be distributed as follows:

(1) Original - Employee's copy;
(2) Duplicate - BIR's copy; and

(3) Triplicate - Employer's copy which shall be retained for a period of ten (10) years.

The Certificate shall indicate the following information:

a. Name and address of the employee;
b. Employee's Taxpayer Identification Number (TIN);
c. Name and Address of the Employer;
d. Employer's TIN;
e. The sum of compensation paid, including the non-taxable benefits;
f. The amount of statutory minimum wage received if employee is MWE;
g. Overtime pay, holiday pay, night shift differential pay, and hazard pay received if employee is MWE;
h. The amount of tax due, if any; and
i. The amount of tax withheld, if any.

The Certificate must be signed by both the employer/employer's authorized officer and the employee. It 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.

Employees qualified for the substituted filing of his/her Income Tax Return (ITR) as indicated under Sec 2.83.4 of RR No. 2-98, as amended, shall immediately affix their signatures in the Certificate of Compensation Payment and Tax Withheld to signify their intention to avail of the substituted filing of ITR, and return to the employer the duly signed Certificates for the latter's signature. The employer shall give back to the employee qualified for substituted filing of ITR the original copy while the duplicate copy shall be submitted by the employer to the concerned BIR office not later than February 28 of the succeeding year, with accompanying Certified List of Employees Qualified for Substituted Filing of ITR (Annex "F"), reflecting the amount of income payment, the tax due and tax withheld. This list shall be stamped "Received" by the concerned BIR office, which shall be tantamount to the substituted filing of ITR by the qualified employees. In the event that the employee will need his/her Certificate (BIR Form No. 2316) stamped "Received", he/she shall request the concerned BIR office to have the Certificate stamped "Received" accompanied with the submission of the employer's certification that he/she was included in the list submitted by such employer to the BIR.

For employees not qualified for substituted filing of Income Tax Return, two (original and duplicate) copies of the subject certificate shall be given to the employee to serve as proof of compensation received and tax credit, and the other copy shall be retained by the employer. This shall form part of the employee's Income Tax Return to be filed on or before April 15 of the following year.

Failure of the employer to furnish the employee of the Certificate of Compensation and Tax Withheld shall be a ground for the mandatory audit of payor's all internal revenue tax liabilities upon verified complaint.

In case of successive employments during the taxable year, an extra copy of BIR Form No. 2316, duly certified by the previous employer, shall be furnished by the employee to the new employer.

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 No. 2316 within the time required by these Regulations, may be held liable under Section 250 of the Tax Code, as amended, for each failure.

The imposition of any of the penalties under the Tax Code, as amended, and the compromise of the criminal penalty on such violations shall not in any manner relieve the violating taxpayer from the obligation to submit the required documents.

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 No. 2316 within the time required by these Regulations for two consecutive years may be dealt with in accordance with Section 255 of the Tax Code, as amended."

SECTION 13. Section 2.83.4 of RR No. 2-98 is hereby amended to read as follows:

"***SECTION 2.83.4. Substituted Filing of Income Tax Returns by Employees Receiving Purely Compensation Income.*** – Individual taxpayers receiving purely compensation income, regardless of amount, from only one employer in the Philippines for the calendar year, the income tax of which has been withheld correctly by the said employer (tax due equals tax withheld) shall not be required to file Annual Income Tax Return for Individuals Earning Purely Compensation Income (BIR Form No. 1700). In lieu of BIR Form No. 1700, the Certified List of Employees Qualified for Substituted Filing of ITR with information regarding the name of compensation earner, TIN, compensation paid, tax due and tax withheld, filed by the employer with the concerned BIR office and stamped "Received" by the latter shall be tantamount to the substituted filing of ITRs by concerned employees.

The following individuals, however, are not qualified for substituted filing and therefore, still required to file Income Tax Return in accordance with existing regulations:

(A) Individuals deriving compensation from two or more employers concurrently or successively at any time during the taxable year.

(B) Employees deriving compensation income, regardless of the amount, whether from a single or several employers during the calendar year, the income tax of which has not been withheld correctly (i.e. tax due is not equal to the tax withheld) resulting to collectible or refundable return.

(C) Individuals deriving other non-business, non-professional-related income in addition to compensation income not otherwise subject to a final tax.

(D) Individuals receiving purely compensation income from a single employer, although the income tax of which has been correctly withheld, but whose spouse falls under Section 2.83.4(A), 2.83.4(B) and 2.83.4(C) of these regulations.

(E) Non-resident aliens engaged in trade or business in the Philippines deriving purely compensation income, or compensation income and other non-business, non-professional-related income.

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SECTION 14. TRANSITORY PROVISIONS. Income recipient/payee subject to withholding tax under Section 2 (Section 2.57.2) hereof and availing to be exempt from the prescribed withholding tax rates, shall submit on or before April 6, 2018 a duly accomplished "Income Payee's Sworn Declaration of Gross Receipts/Sales", together with a copy of the Certificate of Registration (COR) to his/her income payor/withholding agent.

The income payor/withholding agent who/which received the "Income Payee's Sworn Declaration of Gross Receipts/Sales" and the copy of the payee's COR shall submit on or before April 20, 2018, a duly accomplished "Income Payor/Withholding Agent's Sworn Declaration", together with the List of Payees who have submitted "Income Payee's Sworn Declaration of Gross Receipts/Sales" and copies of CORs.

Any income tax withheld by the income payor/withholding agent in excess of what is prescribed in these regulations shall be refunded to the payee by the said income payor/withholding agent. The income payor/withholding agent shall reflect the amount refunded as adjustment to the remittable withholding tax due for the first quarter withholding tax return. The adjusted amount of tax withheld shall also be reflected in the Alphabetical List of Payees to be attached in the said first (1st) quarter return. The said list of payees, who are subject to refund either due to the change of rates of withholding or due to the qualification to avail of exemption from withholding tax (e.g. income recipient/payee submitted "Income Payee's Sworn Declaration of Gross Receipts/Sales" and copy of COR), shall likewise be attached in the said return which shall be filed on or before April 30, 2018.

In case the Certificate of Tax Withheld at Source (BIR Form No. 2307) has already been given to the payee, the same shall be returned by the payee to the payor upon receipt of the amount refunded by the income payor/withholding agent, together with the corrected BIR Form No. 2307, if still applicable. Otherwise, the said certificate to be given to the payee on or before the twentieth (20th) day after the close of the first (1st) quarter must reflect the corrected amount of tax withheld.

In no case shall income payee use BIR Form No. 2307 twice for the same amount of income payment from the same income payor/withholding agent and for the same period.

SECTION 15. REPEALING CLAUSE. All existing rules and regulations or parts thereof which are inconsistent with the provisions of these regulations are hereby revoked.

SECTION 16. EFFECTIVITY. These regulations are effective beginning January 1, 2018, the effectivity date of the TRAIN law.

(Original Signed)
CARLOS G. DOMINGUEZ
Secretary of Finance

Recommending Approval:

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