REPUBLIKANG PILIPINAS
KAGAWARAN NG PANANALAPI
KAWANIHAN NG RENTAS INTERNAS

Quezon City

February 04, 2009

REVENUE REGULATIONS NO. 2-2009

SUBJECT : AMENDING FURTHER SECS. 2.57.2 AND 2.58 OF REVENUE REGULATIONS NO. 2-98, AS AMENDED, SUBJECTING TO CREDITABLE WITHHOLDING TAX THE INTEREST PORTION OF THE REFUND OF METER DEPOSITS BY MERALCO AND OTHER DISTRIBUTION UTILITIES TO RESIDENTIAL AND NON-RESIDENTIAL ELECTRICITY CONSUMERS/ CUSTOMERS.

TO : ALL INTERNAL REVENUE OFFICERS AND OTHERS CONCERNED.

SECTION 1. SCOPE. - Article 8 of the *"Magna Carta for Residential Electricity Consumers"* promulgated by the Energy Regulatory Commission (ERC) on June 17, 2004, with respect to the payment of meter deposit by residential electricity consumers, provides as follows:

> *"**Article 8. Exemption from Payment of Meter Deposit** - **All consumers shall be exempt from payment of meter deposits** since private distribution utilities have incorporated the cost of these electric watthour meters in their rate base. Electric cooperatives shall use their respective Reinvestment Funds to procure electric watthour meters for their consumers.*
>
> *"In cases of loss and/or damage to the electric meter due to the fault of the customer, he shall bear the replacement of the cost of meter." (emphasis supplied)*

Corollarily, a similar exemption from the payment of meter deposit was subsequently granted to non-residential electricity consumers when ERC issued ERC Resolution No. 2005-10RM, dated January 18, 2006, otherwise known as the "*Distribution Services and Open Access Rules (DSOAR)*".

Article 3.4.2 of DSOAR, states:

"3.4.2 ***NON-RESIDENTIAL ELECTRICITY CUSTOMERS***

> *"For the establishment of credit, non-residential electricity customers shall submit a bill deposit to guarantee payment of bills. xxx xxx xxx*
>
> *"The bill deposit shall be refunded within one month from the termination of the service provided that all bills have been paid. xxx xxx xxx*
>
> ***"All customers shall be exempt from the payment of meter deposits. In cases of loss and/or damage to the electric meter due to the fault of the customer, the customer shall bear the full replacement cost of the meter. Within 90 days following the effectivity of the DSOAR, all DUs shall submit a proposal to ERC on the methodology and timeline for the refund of all existing meter deposits."*** **(***emphasis supplied.)*

On June 4, 2008, after having conducted public consultations with several distribution utilities (DUs) and various consumer groups on the subject of how to go about with the refund of meter deposits of those electricity consumers from their respective DUs, ERC came up with ERC Resolution No. 8, Series of 2008, approving and adopting the "*Rules Governing the Refund of Meter Deposits to Residential and Non-Residential Consumers*".

Said rules, among others, have provided the DUs with guidelines and parameters for the refund of meter deposits pertinent to each type of consumer (i.e., residential and/or non-residential consumer) as well as the applicable interest rates and formulae to be used in determining the corresponding interest to be paid. A timeline for the duration of the refund period is also found in Section 1 of Article IV thereof which stipulates that "*The refund of meter deposits and its applicable interest must be completed by the DUs not longer than sixty-six (66) months from the effectivity of these Rules*".

In view of the impending refunds of the meter deposits and the corresponding amount of interest that had accrued thereon by the DUs to their residential and non-residential customers, these Regulations are hereby promulgated, pursuant to the provisions of Section 244 in relation to Section 57(B) of the National Internal Revenue Code of 1997, as amended, and the above rules promulgated by ERC, in order to include said interest payments as one of those income payments subject to creditable withholding tax under Sec. 2.57.2 of Revenue Regulations No. 2-98, as amended.

This is with the aim of ensuring that the fair amount due to the Government, by way of taxes due from such interest income, is already secured and collected at the time such interest payments are made, as well as provide a mechanism by which to discourage the income recipients thereof from not declaring such receipt of interest income for tax purposes.

SEC. 2. AMENDMENTS TO SEC. 2.57.2 OF REVENUE REGULATIONS NO. 2-98, AS AMENDED. - Sec.2.57.2 of Revenue Regulations No. 2-98, as amended, is hereby further amended, to read as follows:

"Sec. 2.57.2. Income payments subject to creditable 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:*

xxx xxx xxx

"(U) MERALCO Payments on the following:

"(1) MERALCO Refund arising from Supreme Court Case G.R. No. 14814 of April 9, 2003 to customers under Phase IV as approved by ERC – On gross amount of refund given by MERALCO to Customers with active contracts as classified by MERALCO – Twenty Five Percent (25%); To Customers with terminated contracts – Thirty Two Percent (32%); and

(2) Interest income on the refund of meter deposits determined, computed and paid in accordance with the "Rules to Govern Refund of Meter Deposits to Residential and Non-Residential Customers", as approved by the Energy Regulatory Commission under Resolution No. 8, Series of 2008, dated June 4, 2008 implementing Article 8 of the Magna Carta for Residential Electricity Consumers and ERC Resolution No. 2005-10 RM (otherwise known as DSOAR) dated January 18, 2006, exempting all electricity consumers from the payment of meter deposit .

On gross amount of interest whether paid directly to the customers or applied against customer's billings:

(i) Residential and General Service customers whose monthly electricity consumption exceeds 200 kwh as classified by MERALCO - Ten percent (10%)

(ii) Non-Residential customers - Ten percent (10%)

(V) 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 which was approved and adopted by ERC in compliance with the mandate of Article 8 of the Magna Carta for Residential Electricity Consumers and

Article 3.4.2 of DSOAR, exempting all electricity consumers, whether residential or non-residential, from the payment of meter deposit.

On gross amount of interest whether paid directly to the customers or applied against customer's billings:

(i) Residential and General Service customers whose monthly electricity consumption exceeds 200 kwh as classified by the concerned DU - Ten percent (10%)

(ii) Non-Residential – Twenty percent (20%)

SEC. 3 RETURNS AND PAYMENT OF TAXES WITHHELD AT SOURCE. - Sec. 2.58(A)(2) of Revenue Regulations No. 2-98, as amended by Revenue Regulations 8-2005, is hereby further amended to read as follows:

"Sec. 2.58. RETURNS AND PAYMENT OF TAXES WITHHELD AT SOURCE. -

"(A) Monthly return and payment of taxes withheld at source —

"(1) WHERE TO FILE —

xxx xxx xxx

"(2) WHEN TO FILE —

xxx xxx xxx

" MERALCO and other Distribution Utilities (DUs) required to withhold taxes pursuant to Sec.2.57.2 (U) and (V) above shall submit a Monthly Alphalist of Payees (MAP) (Annex "A") for each calendar quarter, which shall be electronically attached to the monthly remittance return of the calendar quarter (e.g. BIR Form 1601-E for the quarter ending March with attached MAP for January, February, March). It shall contain an alphalist of customers from whom taxes have been withheld for the return period and in whose behalf, the taxes were remitted under BIR Form No. 1601-E showing the total amount of income and taxes withheld and remitted.

"xxx xxx xxx

"xxx xxx xxx"

SEC. 4. REPEALING CLAUSE. - The provisions of any revenue regulations, revenue memorandum orders or circulars or any other revenue issuance inconsistent herewith are hereby repealed, amended, or modified accordingly.

SEC. 5. EFFECTIVITY CLAUSE. — These Regulations shall take effect fifteen (15) days following publication in a newspaper of general circulation.

(Original Signed)
MARGARITO B. TEVES
Secretary of Finance

Recommending Approval:

(Original Signed)
SIXTO S. ESQUIVIAS IV
Commissioner of Internal Revenue