

Republika ng Pilipinas
PAMBANSANG PANGSIWAAN NG PATUBIG
(National Irrigation Administration)
Lungsod ng Quezon

Noted: 12/4/78

RCV- *fr* 12/6/78
EMB- *gms*

AGG- *A*

JTS- *J*

RPR- *JP*

ZDR- *zan*

MC # 71, s. 1978

MEMORANDUM CIRCULAR

T O : THE ASSISTANT ADMINISTRATORS; HEADS OF DEPARTMENTS AND STAFFS; HEADS OF SPECIAL PROJECTS; REGIONAL IRRIGATION DIRECTORS; PROVINCIAL AND PROJECT ENGINEERS; IRRIGATION SUPERINTENDENTS AND/OR OFFICERS-IN-CHARGE OF IRRIGATION SYSTEMS/OFFICES; CHIEF CORPORATE ACCOUNTANT AND REGIONAL/PROJECT ACCOUNTANTS; ACCOUNTING CLERKS; AND ALL OTHERS CONCERNED
National Irrigation Administration

SUBJECT : Revenue Regulations No. 13-78, Dated September 7, 1978 and Effective November 1, 1978

Attached is Revenue Regulations No. 13-78, dated September 7, 1978, Re: Revenue Regulations Implementing the Provisions of attached copy of Presidential Decree No. 1351 which amends Sections 30 and 53 of the National Internal Revenue Code.

It is hereby directed that Heads of field offices should see to it that a copy of this Revenue Regulations is kept in each field accounting unit as guidance in the processing of vouchers.

Strict compliance is enjoined.

(SGD.) *ALFREDO L. JUINIO*
Administrator

Attachments:

November 9, 1978

MALACANANG PALACE
MANILA

PRESIDENTIAL DECREE NO. 1351

AMENDING SECTIONS 30 AND 53 OF THE NATIONAL INTERNAL REVENUE CODE OF 1977 TO AUTHORIZE THE SECRETARY OF FINANCE TO REQUIRE WITHHOLDING OF CREDITABLE INCOME TAXES FROM CERTAIN INCOME PAYMENTS AND TO REQUIRE PROOF OF SUCH WITHHOLDING AS AN ADDITIONAL CONDITION FOR DEDUCTIONS FROM GROSS INCOME

WHEREAS, the most convenient, effective and generally accepted method of collecting income taxes is through the withholding system;

WHEREAS, in order to optimize the effectiveness of the present tax collection system, it is necessary to expand the coverage of the withholding system;

WHEREAS, certain ordinary and necessary expenses and other items allowed as deductions constitute income to the recipients thereof and therefore includible in their gross income;

WHEREAS, in order to insure the collection of the income tax on these income payments, it is necessary to subject such payments to the withholding of tax at source and to require proof of such withholding and payment to the BIR as a requirement for the deductibility of such payment;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Republic of the Philippines, by virtue of powers vested in me by the Constitution, do hereby order and decree the following:

Section 1. Section 53(f) of the National Internal Revenue Code of 1977 is hereby amended to read as follows:

"(f) The Secretary of Finance may, upon recommendation of the Commissioner of Internal Revenue, require also the withholding of a tax on the same items of income payable to persons (natural or juridical) residing in the Philippines by the same persons mentioned in paragraph (b) (1) of this Section at the rate of not less than 2-1/2% but not more than 35% thereof which shall be credited against the income tax liability of the taxpayer for the taxable year."

Section 2. Section 30 of the National Internal Revenue Code of 1977 is hereby amended by adding a new paragraph to read as follows:

"(m) Additional requirement for deductibility of income payments. Any income payment which is otherwise deductible from gross income under this Section shall be allowed as a deduction only if it is shown that the tax required to be deducted and withhold therefrom has been paid to the Bureau of Internal Revenue in accordance with this Section, Section 54 and 93 of this Code."

Section 3. This decree shall take effect immediately.

DONE in the City of Manila, this 17th day of April, in the year of Our Lord nineteen hundred and seventy-eight.

(SGD.) ILLEGIBLE

by the President:

(SGD.) JACOBO C. CLAVE
Presidential Executive Assistant

CERTIFIED COPY:

(SGD.) MELQUIADES F. DE LA CRUZ CESD D
Presidential Staff Director
Malacañang Records Officer

4/17/78

/ida:

Republic of the Philippines
Ministry of Finance
BUREAU OF INTERNAL REVENUE
Quezon City

September 7, 1978

REVENUE REGULATIONS NO. 13 - 78

SUBJECT: Revenue Regulations Implementing the Provisions of Presidential Decree No. 1351 which amends Sections 30 and 53 of the National Internal Revenue Code.

T O : All Internal Revenue Officers and Others Concerned.

Pursuant to the provisions of Presidential Decree No. 1351 and in accordance with Section 4 in relation to Section 326 of the National Internal Revenue Code of 1977, as amended, these Regulations are hereby promulgated to implement the withholding of creditable income taxes from certain income payments and the additional requirement for deductibility of such income payments, which are otherwise deductible from the gross income of the payor.

SECTION 1. Income payments subject to withholding tax and rates prescribed therein. 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. paid to individuals. On the gross professional, promotional and talent fees paid to the following individuals:

- (1) Those individually engaged in the practice of professions: lawyers; certified public accountants; medical practitioners; architects; civil, electrical, chemical, mechanical, structural, industrial, mining, and sanitary engineers; veterinarians; dentists; professional appraisers or connoisseurs of tobacco and other domestic or foreign products; actuaries; interior decorators; marine surveyors; land surveyors; customs and real estate brokers; registered electricians; registered master plumbers; and other professionals - ten per centum (10%).
- (2) Professional entertainers such as actors and actresses, singers and emcees - ten per centum (10%)

The term actors and actresses shall not include "bit players" and "extras" whose roles or performances in a movie, television program or stage presentation are subordinate to the actors or actresses and to whom payment made per role or performance does not exceed five hundred pesos (P500.00).

- (3) Professional athletes including pelotaries and jockeys - ten per centum (10%).
- (4) Professional movie, stage and television directors, musical directors and bandleaders - ten per centum (10%).

(5) Management and technical consultants - ten per centum (10%).

(6) Insurance agents - five per centum (5%).

The amount subject to withholding under this paragraph shall include not only the fees, but also per diems, allowances and other remunerations paid including amounts paid to them in consideration of the use of their names or pictures, or public appearances either on stage, in print or broadcast media for purposes of advertisements or sale promotions.

(b) Professional fees, talent fees, etc., paid to taxable juridical persons. - On the gross professional, promotional, talent fees or other remunerations enumerated in the preceding subparagraph paid to taxable juridical persons - five per centum (5%).

(c) Rentals. - When the gross rental or other payment required to be made as a condition to the continued use or possession of property, whether real or personal, to which the payor or obligor has not taken or is not taking title or in which he has no equity, exceeds five hundred pesos (P500.00) - five per centum (5%)

(d) Cinematographic film rentals and other payments. - On the gross payments to resident individuals and corporate cinematographic film owners, lessors or distributors - five per centum (5%)

(e) Amounts paid to certain contractors. - On gross payment to the following contractors, whether individual or corporation - three per centum (3%):

(1) General engineering, general building and specialty contractors -

a). General Engineering Contractors. - Those whose principal contracting business is in connection with fixed works requiring specialized engineering knowledge and skill including the following divisions or subjects:

- 1) Reclamation works;
- 2) Railroads;
- 3) Highways, streets and roads;
- 4) Tunnels;
- 5) Airports and airways;
- 6) Waste reduction plants;
- 7) Bridges, overpasses, underpasses and other similar works;
- 8) Pipelines and other systems for the transmission of petroleum and other liquid or gaseous substances;
- 9) Land levelling;
- 10) Excavating;

- 11) Trenching
- 12) Paying and
- 13) Surfacing work.

b) General Building Contractors. - Those whose principal contracting business is in connection with any structure built, being built, or to be 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 thereof. 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 skill, 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.

c) 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.

- (2) Filling, demolition and salvage work contractors and operators of mine drilling apparatus;
- (3) Operators of dockyards;
- (4) Persons engaged in the installation of water system, and gas or electric light, heat, or power;
- (5) Operators of arrastre and stevedoring, warehousing or forwarding establishments;
- (6) Printers, bookbinders, lithographers and publishers except those engaged in the publication or printing and publication of any newspaper, magazine, review or bulletin which appears at regular intervals, with fixed prices for subscription and sale and which is not devoted principally to the publication of advertisements;
- (7) Messengerial, janitorial and private detective and/or security agencies and credit and collection agencies;
- (8) Advertising agencies;
- (9) Producers of television and stage performances or shows;
- (10) Producers of "jingles"; and
- (11) Bookkeeping agencies.

(f) Awards and prizes. - On awards and prizes in the amount of or the cash value of which, exceeds five hundred pesos (P500.00) fifteen per centum (15%).

(g) Income distribution to beneficiaries. - On income distributed to beneficiaries of estates and trusts as determined under Section 57 of the National Internal Revenue Code - fifteen per centum (15%).

SECTION 2. Persons required to deduct and withhold. - The following persons are hereby constituted as withholding agents for purposes of the tax required to be withheld on income payments enumerated in the preceding section:

- (a) An individual, with respect to payments made in connection with his trade or business;
- (b) Any juridical person, whether or not engaged in trade or business; and
- (c) All government offices including government-owned or controlled corporations as well as provincial, city and municipal governments.

SECTION 3. Quarterly return and payment of taxes withheld at sources. - Taxes deducted and withheld under these Regulations shall be covered by a return (BIR Form 1743-B) for each calendar quarter and paid on or before the last day of the month following the close of the quarter to the Commissioner of Internal Revenue or to his collection agent in the city or municipality where the withholding agent has his legal residence or principal place of business. In places where payment thru banks is the prescribed procedure, payment must be made to any of the authorized agent banks.

If the amount of taxes deducted and withheld amounts to five hundred pesos or more during the month, it shall be the duty of every withholding agent to pay within twenty (20) days after the month in which the withholding was made. Provided, that taxes withheld during the last month of the quarter by the withholding agent may be remitted not later than the last day of the month after the close of the quarter.

The taxes deducted and withheld by the withholding agent shall be held in trust for the government until paid to the collecting officers.

If the payor is the Government of the Philippines or any political subdivision or agency thereof or government-owned or controlled corporation, the return prescribed (BIR Form 1743-B) shall be made by the officer or employee having control of the payments or by any duly designated officer or employee.

SECTION 4. Statement and Returns. - (a) Quarterly statement of income payment to and taxes withheld from corporate payees. - Every payor required to deduct and withhold taxes under these Regulations shall furnish each corporate payee a written statement duly signed showing the income payment made by him during the calendar quarter and the amount of taxes deducted and withheld therefrom on or before the twentieth day after the end of each calendar quarter.

The amount so withheld shall be allowed as a tax credit in computing its quarterly tax liability, provided that the income upon which the tax has been withheld has been reported as income for such quarter.

(b) Annual statement of income payments made to and taxes withheld from individual payees. - Every payor required to deduct and withhold taxes under these Regulations shall furnish each individual payee, not later than the first day of March of the following year, a written statement duly signed (BIR Form 1743-A) showing the income payments made and the amount of taxes withheld.

(c) Annual Return of Income Tax Withheld at Source. - The payor is also required to file with the Commissioner of Internal Revenue, Withholding Tax Division, Revenue Regional Director, Revenue District Officer, Collection Agent of the city or municipality in which the payor has his legal residence or principal place of business, or where the government office is located, on or before the 1st day of March of the year next following the year in which payments were made, an annual return of income tax withheld at source (BIR Form 1743), showing the following information:

- (1) The official receipt, date of payment and amount paid for each quarter;
- (2) Name, address, and taxpayers account number of payees; and
- (3) Nature of income payment, gross amount and amount of tax withheld from each payee.

Any person subject to the requirements of these Regulations shall be exempt from compliance with the requirements of Section 77 of the National Internal Revenue Code and the Regulations thereunder with respect only to payments from which tax has been withheld.

SECTION 5. Verification of returns and statements. - Any return, statement or other document required to be filed under these Regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury and this declaration shall be in lieu of any oath otherwise required.

SECTION 6. Penalties. - Any failure to comply with the provisions of these Regulations shall be subject to the ad valorem and specific penalties prescribed by Sections 72, 73 and 74 of the National Internal Revenue Code, as amended.

SECTION 7. Requirement for deductibility. - Any income payment, which is otherwise deductible under Sections 30 and 57 of the Tax Code, as amended, shall be allowed as a deduction from the payor's gross income only if it is shown that the tax required to be withheld has been paid to the Bureau of Internal Revenue in accordance with Sections 53, 54, 91 and 93 also of the Tax Code. Provided, that this additional requirement shall apply only to payment made on or after the date of the effectivity of these Regulations.

SECTION 8. Claims for tax credit or refund. - Claims for tax credit or refund of income tax deducted and withheld on income payments shall be given due course only when it is shown on the return that the income payment received was declared as part of the gross

income and, the fact of withholding is established by a copy of the statement duly issued by the payer to the payee (BIR Form No. 1743-A) showing the amount paid and the amount of tax withheld therefrom.

SECTION 9. Effectivity.— These Regulations shall apply only to income payments made beginning November 1, 1978.

CESAR VIRATA
Minister of Finance

RECOMMENDATION APPROVAL:

Acting Commissioner

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