[BIR REVENUE REGULATIONS NO. 3-2002, MARCH 22, 2002, March 22, 2002]

AMENDING SECTION 2.58 AND FURTHER AMENDING SECTION 2.83 OF REVENUE REGULATIONS NO. 2-98 AS AMENDED, RELATIVE TO THE SUBMISSION OF THE ALPHABETICAL LISTS OF EMPLOYEES/PAYEES IN DISKETTE FORM AND THE SUBSTITUTED FILING OF INCOME TAX RETURNS OF PAYEES/EMPLOYEES RECEIVING PURELY COMPENSATION INCOME FROM ONLY ONE EMPLOYER FOR ONE TAXABLE YEAR WHOSE TAX DUE IS EQUAL TO TAX WITHHELD AND INDIVIDUAL-PAYEES WHOSE COMPENSATION INCOME IS SUBJECT TO FINAL WITHHOLDING TAX.

Pursuant to the provisions of Section 244 in relation to Sections 58 (B) & (C), 83 and 51(A)(2)(b) of the National Internal Revenue Code of 1997, these Regulations are hereby promulgated to further amend pertinent provisions of Revenue Regulations No. 2-98 as amended.

SECTION 1. Section 2.58(B) and (C) of Revenue Regulations No. 2-98, is hereby amended to read as follows:

"*Section 2.58. RETURNS AND PAYMENT OF TAXES WITHHELD AT SOURCE.*

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(B) Withholding tax statement for taxes withheld. — Every payor required to deduct and withhold taxes under these regulations shall furnish, in triplicate, each payee, whether individual or corporate, with a withholding tax statement, using the prescribed form (BIR Form No. 2307) showing the income payments made and the amount of taxes withheld therefrom, for every month of the quarter, within twenty (20) days following the close of the taxable quarter employed by the payee in filing his/its quarterly income tax return. The payor, nonetheless, should always retain a copy of duly issued BIR Form No. 2307. Failure to furnish the same shall be a ground for the mandatory audit of payor's income tax liabilities (including withholding tax) upon verified complaint of the payee.

For final withholding taxes, the statement should be given to the payee on or before January 31 of the succeeding year.

Upon request of the payee, however, the payor must furnish such certificate simultaneously with the income payment.

(C) Annual information return for income tax withheld at source. — The payor is required to file with the BIR-Large Taxpayers Assistance Division, Large

Taxpayers District Office or the Excise Taxpayers Assistance Division, or the Revenue District Office where the payor/employer is registered as Withholding Agent, on or before March 1 of the following year in which payments were made, an Annual Information Return of Creditable Income Taxes Withheld (Expanded)/Income Payments Exempt from Withholding Tax (BIR Form No. 1604-E) and on or before January 31 of the said year an Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes (BIR Form No. 1604-CF), showing among others, the following information:

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An individual whose sole income has been subjected to final withholding tax provided under Section 57(A) shall not be required to file an income tax return pursuant to Section 51(A)(2)(c) of the Tax Code. For purposes of documentation, as may be required by other agencies in the government (including, but not limited to, the Bureau of Immigration as well as for purposes of establishing financial capacity for bank loans or credit card application in private and public entities and other purposes, BIR Form No. 2306 duly signed by the employer and the employee shall suffice. The term "an individual whose compensation income has been subjected to final withholding tax" shall include aliens or Filipino citizens occupying the same positions as the alien employees, as the case may be, who are employed by regional operating headquarters, regional or area headquarters, offshore banking units, petroleum service contractors and sub-contractors, pursuant to pertinent provisions of Sections 25(C), (D), (E) and 57(A) of the Tax Code of 1997, Republic Act No. 8756, Presidential Decree No. 1354, and other pertinent laws."

SECTION 2. Section 2.83.1 of Revenue Regulations 2-98 is hereby amended to read as follows:

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

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The employee who is qualified for substituted filing of income tax return under these regulations, and the employer, shall issue a joint certification (Annex "A") to the effect that the employer's filing of BIR Form No. 1604-CF shall be considered a substituted filing of the employee's income tax return to the extent that the amount of compensation and tax withheld appearing in BIR Form No. 1604-CF, as filed with the BIR, is consistent with the corresponding amounts indicated in BIR Form No. 2316 and the certification. The parties shall

likewise certify, under oath, that the information stated in such certification is true and correct to the best of their knowledge. Such employee shall no longer be required to file income tax return (BIR Form No. 1700) since BIR Form No. 1604-CF shall be considered a substituted return filed by the employer with the consent of such employee.

The joint certification shall serve the same purpose as if a BIR Form No. 1700 had been filed, such as proof of financial capacity for purposes of loan, credit card, or other applications, or for the purpose of availing tax credit in the employee's home country and for other purposes with various government agencies. This may also be used for purposes of securing travel tax exemption, when necessary."

SECTION 3. Section 2.83.3 of Revenue Regulations No. 2-98, as amended by Revenue Regulations No. 7-2000, is hereby further amended to read as follows:

"Section 2.83.3. Requirement for list of payees. — In addition to the manually prepared alphabetical list of employees and list of payees who are recipients of income payments subjected to creditable and final withholding taxes which form part of the Annual Information Returns (BIR Form Nos. 1604-CF/1604-E), the withholding agent may, at his option, submit 3.5 inch floppy diskettes, containing the said list.

However, taxpayers whose number of employees or income payees are ten (10) or more, are mandatorily required to submit the said lists in a 3.5 inch floppy diskettes, using the existing CSV data file format, together with the manually prepared alphabetical list. In order to comply with this format, the withholding agents shall have the option to use any of the following:

1. the Excel format provided under Revenue Regulations No. 7-2000 with technical specifications to be prescribed in a Revenue Memorandum Circular (RMC) to be issued by the BIR;

2. their own extract program that shall meet the requirements specified in the above-mentioned RMC; or

3. the Data Entry Module using Visual Foxpro that will be available upon request or by downloading from the BIR's web site at http://www.bir.gov.ph, with the corresponding job aid to be provided in the above-mentioned RMC.

For those who would choose either option 1 or 2, such taxpayers shall use a validation module developed by the BIR, which can be downloaded from the BIR website.

In any case, the withholding agents are required to save the same to a secondary storage as back up for a period of three (3) years from submission of the diskette, as aforementioned, for future reference.

For withholding agents classified as large taxpayers and excise taxpayers falling within the jurisdiction of the Large Taxpayers Service and/or Large Taxpayers District Office, the Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes (BIR Form No. 1604-CF) and the Annual