

[BIR REVENUE REGULATION NO. 4-88, January 21, 1988]

WITHHOLDING OF TAXES ON MONEY PAYMENTS BY GOVERNMENT OFFICES, AGENCIES AND INSTRUMENTALITIES

Pursuant to the provisions of Section 245 of the National Internal Revenue Code in relation to Section 3 of Republic Act No. 1051, these regulations are hereby promulgated to govern the manner of the withholding and remittance of taxes due on account of money payments made by government offices, instrumentalities and agencies.

SECTION 1. Offices Required to Deduct and Withhold. — All bureaus, offices and instrumentalities of the government, including government owned or controlled corporations, as well as their subsidiaries; provinces, cities and municipalities shall, before making any money payment to private individuals, corporations, partnerships and/or associations, deduct and withhold the taxes due from the said payees on account of such money payments.

SECTION 2. Internal Revenue Taxes Required to be Withheld. — Percentage taxes on gross money payments to the following are subject to withholding:

- (a) Proprietors or operators of restaurants, refreshment parlors and other eating places, including clubs and caterers, four percent (4%) on their gross receipts;

Proprietors or operators of restaurants, bars, cafes and other places, including clubs where distilled spirits, fermented liquors or wines are served, four percent (4%) on their gross receipts from the sale of food or refreshments and eight percent (8%) on their gross receipts from sale of distilled spirits, fermented liquors or wines. Two (2) sets of commercial invoices or receipts serially numbered in duplicate shall be separately prepared and issued one for each sale of food or refreshment served and another for each sale of distilled spirits, fermented liquors or wines served, the originals of the invoices or receipts to be issued to the purchaser or customer.

Proprietors or operators of restaurants, refreshment parlors, bars, cafes and other eating places which are maintained within the premises or compound of a cockpit, cabaret, night or day club, Jai-Alai, race track, or which are accessible to patrons of such cockpit, cabaret, night or day club, Jai-Alai, or race track by means of a connecting door or passage, twelve percent (12%) in the case of cockpit, cabaret, night or day club, and twenty five percent (25%) in the case of Jai-Alai and race track on their gross receipts.

- (b) Proprietors, operators, or keepers of hotels, motels, rest houses, pension houses, lodging houses and resorts, twelve per cent (12%) on

their gross receipts derived from room occupancy.

(c) Keepers of garages, cars for rent or hire driven by the lessee, transportation contractors, persons who transport passengers or freight for hire, and common carriers by land, air or water, except owners of bancas and owners of animal-drawn two wheeled vehicles, three percent (3%) on their gross receipts.

(d) Franchise grantees on their gross receipts from the business covered by the law granting the franchise, at the following rates:

1. On electric utilities, city gas and water supplies . . . Two (2%) percent, except electric and local waterworks cooperatives pursuant to **Memorandum Order No. 65, dated January 21, 1987** of the President.

2. On telephone and/or telegraph system, and radio or broadcasting stations . . . Three (3%) per cent.

3. On other franchise . . . Five (5%) per cent.

(e) Persons doing insurance business, five (5%) per centum on the total premiums collected except on reinsurance premiums.

(f) Sellers of goods or services whose aggregate gross annual sales do not exceed P200,000, if they have not opted to be registered for VAT purposes, two per cent (2%) on gross sales or receipts.

However, no withholding shall be required in the case of sellers of goods or services who are exempt from the value-added tax if they have elected to register and be subjected to the value-added tax.

SECTION 3. *Exemptions* . — The withholding tax herein prescribed shall not apply on money payments to —

(a) Government agencies or instrumentalities, including provincial, city or municipal government, received in the exercise of their governmental functions.

(b) Private individuals or corporations, partnerships, and associations exempt from the payment of the taxes mentioned in Section 2 hereof. The exemption, however, shall be allowed only if the payee shall have presented to the paying government office or entity a certificate of exemption issued by the Commissioner of Internal Revenue or his duly authorized representatives.

SECTION 4. *Basis of Computation* .

(a) **Caterer's Tax:** — The basis for computing the 4% or 8% tax on the gross receipts to be withheld is the gross money payment for food or refreshment and for distilled spirits, fermented liquors or wines respectively: Provided, that separate invoices or receipts shall be issued for the sale of food and refreshment and another for distilled spirits, etc. If the sale of food and liquor is not separately invoiced, from the sale of distilled spirits, etc., the total money payment is subject to 8%.