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

Section 32 (B) (6) (b) of the Tax Code, as amended		#002-2017 1-12-2017

Person to Contact: Chief, Law Division
Tel. Nos. 926-55-36/ 927-09-63

ROSE PHARMACY
16 E. Osmeña cor. L. Bacayo St.
Guadalupe, Cebu City

Attention : **ADOR MORADOS**
Employee Relations Manager

Gentlemen:

This refers to your letter dated July 25, 2016, requesting for exemption from withholding tax on separation pay of Ms. Maria Rosario Giron pursuant to Sec 32 (B)(6)(b) of the Tax Code, as amended.

It is represented that Ms. Maria Rosario Giron (TIN:) is a former employee of Rose Pharmacy as Shift Manager from September 18, 2006 to June 2, 2016; that on June 2, 2016, Ms. Maria Rosario Giron was involuntarily separated/terminated from the service on the ground of Serious Dishonesty and Willful Disobedience; that on September 6, 2016, in a Settlement Agreement before the Department of Labor and Employment, Regional Office No. VII, Cebu City, Ms. Maria Rosario Giron is expected to receive a separation pay (Php), last pay, sick leave, unpaid overtime pay and 13^{th} month pay, amounting to (Php); and that the amount of tax due on the basis of the separation is Php and Php as tax on other taxable income; that the parties agreed to release the amount of Php and the amount of tax due (Php) shall be withheld for the mean time until the result of BIR exemption.

In reply, please be informed that pursuant to Section 32 (B) (6) (b) of the Tax Code of 1997, as amended, any amount received by an official or employee or by his heirs from the employer as a consequence of separation of such official or employee from the service of the employer due to death, sickness or other physical disability or for any cause beyond the control of the said official or employee shall not be included in the gross income and shall be exempt from taxation under Title II of the same Code.

The phrase "for any cause beyond the control of the said official or employee" connotes involuntariness on the part of the official or employee. The separation from service of the official or employee must not be asked for or initiated by him. In other words, the separation must not be of his own making or choice. However, the separation from the service of Ms. Maria Rosario Giron cannot be considered as an involuntary separation within the contemplation of Section 32 (B) (6) (b) of the Tax Code, as amended since her separation is for cause, i.e. "on the ground of Serious Dishonesty and Willful Disobedience"

Accordingly, since the separation from service of Ms. Maria Rosario Giron was not due to "for any cause beyond the control of the said official or employee", the request for exemption from withholding tax on separation pay of Ms. Maria Rosario Giron pursuant to Sec 32 (B)(6)(b) of the Tax Code, as amended, is hereby denied for lack of legal basis

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

K-1-JRC

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