REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
**BUREAU OF INTERNAL REVENUE**

Quezon City

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| Revenue Memorandum Order No. 20-2013; Revenue Memorandum Circular No. 8-2014 | | 571-2017 |

Person to Contact: Chief, Law Division
Tel No. 926-5536/927-0963

Date: December 7, 2017

**NATIONAL POWER CORPORATION**
**PROVIDENT FUND**
Agham Road, Diliman
Quezon City

Attention: **Paquito F. Garcia**
Chairman

Gentlemen:

This refers to your letter dated 17 February 2015 inquiring on behalf of the Provident Fund established by the National Power Corporation (NPC Provident Fund) on whether or not BIR Ruling No. dated October 3, 2008 issued to NPC Provident Fund needs revalidation pursuant to Revenue Memorandum Order (RMO) 20-2013 dated July 22, 2013 and whether or not RMO 20-2013 is applicable on this matter.

It is shown, based on the documents submitted, that NPC Provident Fund was established by virtue of NPC Board Resolution No. 2007-58 issued on September 14, 2007 pursuant to Section 6 of Republic Act (RA) 6395, otherwise known as the Revised Charter of the National Power Corporation, as amended. The NPC Provident Fund was issued a Certificate of Tax Exemption per BIR Ruling No. dated October 3, 2008.

In reply, please be informed that RMO No. 20-2013 was issued to prescribe the policies and guidelines in the issuance of tax exemption rulings to qualified non-stock, non-profit corporations and associations under Section 30 of the 1997 Tax Code, as amended, which exempts from income tax the income derived by the corporations and organizations described therein received by them as such. Considering that the NPC Provident Fund is not categorized as a non-stock, non-profit corporation under Section 30 of the 1997 Tax Code, as amended, it is not qualified for tax exemption under Section 30 of the Tax Code of 1997 and, therefore, RMO No. 20-2013 is not applicable.

Anent the issue on the need to revalidate BIR Ruling No. , noteworthy is Revenue Memorandum Circular (RMC) No. 8-2014 which requires the presentation of a valid, current and subsisting tax exemption certificate or ruling from individuals/entities claiming exemption from withholding tax. RMC No. 8-2014 states:

"Section 31 of the National Internal Revenue Code of 1997, as amended (Tax Code), defines taxable income as:

Section 31. Taxable Income Defined. — The term 'taxable income' means the pertinent items of gross income specified in this Code, less the deductions and/or personal and additional exemptions, if any, authorized for such types of income by this Code or other special laws."

In connection with Section 31 as defined above, Section 32 (A) in relation to Section 27 (A) of the Tax Code defines gross income as follows:

(A) General Definition. — Except when otherwise provided in this Title, gross income means all income derived from whatever source, including (but not limited to) the following items:

(1) Compensation for services in whatever form paid, including, but not limited to fees, salaries, wages, commissions, and similar items;
(2) Gross income derived from the conduct of trade or business or the exercise of a profession;
(3) Gains derived from dealings in property;
(4) Interests;
(5) Rents;
(6) Royalties;
(7) Dividends;
(8) Annuities;
(9) Prizes and winnings;
(10) Pensions; and
(11) Partner's distributive share from the net income of the general professional partnership."

Pursuant to Sections 57 to 59 and Sections 78 to 83 of the Tax Code, in relation to Revenue Regulations (RR) No. 02-1998, as amended, certain items of income are made subject to the payment of withholding taxes (final tax, creditable/expanded withholding tax, withholding tax on compensation) at the rates prescribed therein.

Under the provisions of existing tax laws and administrative issuances, however, some individuals, entities and transactions are considered exempt from imposition of taxes on income and, consequently, from withholding taxes.

> In this regard, the concerned withholding agents shall require all individuals and entities claiming such exemption to provide a copy of a valid, current and subsisting tax exemption certificate or ruling, as per existing administrative issuances and any issuance that may be issued from time to time, before payment of the related income. The tax exemption certificate or ruling must explicitly recognize the grant of tax exemption, as well as the corresponding exemption from imposition of withholding tax. Failure on the part of the taxpayer to present the said tax exemption certificate or ruling as herein required shall subject him to the payment of appropriate withholding taxes due on the transaction. On the other hand, the withholding agent's failure to withhold notwithstanding the lack of tax exemption certificate or ruling shall cause the imposition of penalties under Section 251 and other pertinent Sections of the Tax Code." (Underscoring supplied)

Based on the foregoing, if NPC Provident Fund is engaged in investment activities the income from which is subject to withholding tax, it has to secure a valid, current and subsisting tax exemption certificate or ruling pursuant to RMC No. 8-2014 in order to continue enjoying its exemption from income tax and applicable withholding tax.

Please be guided accordingly.

Very truly yours,

**CAESAR R. DULAY**
Commissioner of Internal Revenue

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