REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Sec. 32(B)(6)(a) NIRC
BIR Ruling No. ERP-01-2011
1429-2017

9-6-2017

MR. JUAN E. NECESARIO
No. 1 Ligtasan Street, Brgy. San Roque
Antipolo City

Dear Mr. Necesario,

This refers to your letter dated November 24, 2016 requesting clarification about taxation of your retirement benefits.

It represented that you were a former employee of Solid Cement Corporation; that you resigned from the company as Technical Assistance Manager/Customer Support Manager last September 30, 2014 at the age of 54 and after 25 years and 4 months of continuous service; that your company has a BIR-approved retirement plan; that the company, however, has deducted an amount equivalent to 32% of your retirement benefits; and that the company has advised you to ask for a BIR ruling for the tax exemption of your retirement benefits.

In reply, please be informed that pursuant to Section 32(B)(6)(a) of the Tax Code of 1997, as amended, the retirement benefits received by a qualified employee in accordance with a reasonable retirement benefit plan shall be exempt from income tax provided that the two (2) conditions set forth therein are satisfied, to wit: (1) the employee had been in the service of the same private firm for at least ten (10) years; and (2) he is at least fifty (50) years old at the time of retirement. As represented, however, you **resigned** from the service of the company. Thus, your resignation benefits are governed by Section 32(B)(6)(b) of the Tax Code of 1997, as amended, which provides:

> *"Section 32(B). Exclusions from Gross Income- The following items shall not be included in gross income and shall be exempt from taxation under this Title:*
>
> *xxx xxx xxx*
>
> *(6) Retirement Benefits, Pensions, Gratuties, etc.-*
>
> *(b) 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 because of death, or sickness or other physical disability or for any cause beyond the control of the said official or employee."*

Based on the above provision, separation benefits given to an employee on account of his separation from employment due to sickness or other physical disability or for any cause beyond the control of said employee is exempt from income tax. In the instant case, there is no showing that your separation from employment was due to sickness or other physical disability or for any cause beyond your control as to warrant the exemption of your separation benefits from income tax. On the other hand, your separation from the service of the company appears to be voluntary as you, in fact, resigned from the company. Thus, this Office is of the opinion, as it hereby rules, that your separation benefits from the company is subject to income tax and, consequently, to the withholding tax.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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CELIA C. KING
Deputy Commissioner
Resource Management Group
Officer-In-Charge