

REVENUE MEMORANDUM CIRCULAR NO. 51-2002 issued on November 15, 2002 clarifies the imposition of the Gross Receipts Tax on items of gross income subject to final withholding tax as well as the tax base thereof.

Revenue Regulations No. 2-98 clarifies that the imposition of the Final Withholding Tax on a particular income will not relieve the recipient/income earner from the imposition of the Percentage Tax.

The finality of the Withholding Tax is limited only to the payee's income tax liability on the particular income. It does not extend to the payee's other tax liability on said income, such as when the said income is further subject to Percentage Tax.

Since the Withholding Tax only answers for the income tax liability of the recipient/income earner, the particular income received, inclusive of the amount of Withholding Tax withheld by the payor, shall still be subject to the Percentage Tax, if applicable.

The Gross Receipts Tax shall be based on the amount of income actually or constructively received during a taxable period, which is equivalent to the economic benefit derived from the income payment. In fine, the Gross Receipts Tax for Percentage Tax purposes is inclusive of the Final Withholding Tax applying the doctrine of "constructive receipt" of income.