REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Republic Act No. 10963, otherwise known as "Tax Reform for Acceleration and Inclusion (TRAIN) Act;
RR No. 2-98; RMO No. 23-2018; & RMC No. 50-2018
OT-0493-2020

Date: SEP 08 2020

GP TAN ACCOUNTING OFFICE
03-0254 Banikag Avenue, Barangay 3
San Francisco, Agusan del Sur 8501

Attention: **GIL P. TAN, CPA**

Sir:

This refers to your email dated August 14, 2019 seeking clarification and interpretation of existing BIR issuances regarding the individual income tax and withholding government payees.

You represented that you are an individual earning from self-employment (Sole Proprietorship Business) and practice of profession with your gross sales/receipts and other non-operating income not exceeding P 3,000,000.00 VAT threshold during the taxable year.

Moreover, you have already availed of the 8% Income Tax Rate in accordance with the provisions of Revenue Memorandum Order (RMO) No. 23-2018, which will exempt you from paying 3% percentage tax imposed under Revenue Regulations (RR) No. 2-98.

However, the local branch of Landbank of the Philippines (LBP) is renting a space in your building for the current year 2019 and it has been withholding from its payment 3% for the Final Withholding Percentage tax and 5% Creditable Withholding Tax.

You now seek clarification if you will still be subjected to the payment of the 3% percentage tax pursuant to RR No. 2-98 or be exempt from payment of percentage tax considering that you have already availed the 8% income tax rate option for individuals pursuant to RMO No. 23-2018.

In reply, please be informed that Section 3 (C) of RR No. 8-2018 provides, to wit:

"A taxpayer who signifies the intention to avail of the 8% income tax rate option, and is conclusively qualified for said option at the end of the taxable year [annual gross sales/receipts and other non-operating income did

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not exceed the VAT threshold (P3,000,000.00)], shall compute the final annual income tax due based on the actual annual gross sales/receipts and other non-operating income. The said income tax due shall be in lieu of the graduated rates of income tax and the percentage tax under Sec. 116 of the Tax Code, as amended."

In relation thereto, the guidelines for withholding agents/payors on the treatment of income payments if the payee is qualified and opted for the 8% income tax rate are provided under Revenue Memorandum Circular (RMC) No. 50-2018 which states, among others, viz:

"Q42: Can you provide a guide for individual taxpayers on the taxability of their earned income from business and/or practice of profession, and for withholding agents/payors on the treatment of income payments if the payee is under the graduated IT rates; if payee is qualified and opted for the 8% IT rate; if subject or not to withholding taxes (WT)?

A42: This will serve as a guide for individual taxpayers engaged in business and/or practice of profession as well as for withholding agents/payors on the treatment of individual income earnings/payments:

Sales Receipts		If Graduated IT rates		If 8% IT rate	
Gross Amt.	*Tax*	*Taxability*	*WT*	*Taxability*	*WT*
P250,000 and below	IT	Taxable at 0%	Not subject	Exempt, if taxpayer's entire income is derived *purely* from business and/or practice of profession; subject to 8%, if mixed income earner (with income from both compensation, and business and/or profession), based on gross sales/receipts & other non-operating income	No, for purely business and/or profession; Yes, if mixed income earner
	PT	Subject	Subject, if government payor	Not subject	Not subject
	Doc	Payee's Sworn Declaration and COR		Payee's Sworn Declaration and COR	
Above P250,000 to P3,000,000	IT	Taxable at applicable graduated rates on net income	Subject at applicable rates	8% on gross sales/receipts and other non-operating income; however, for *purely* business practice — entitled to reduction of P250,000	Subject to applicable rate
	PT	Subject	Subject, if government payor	Not subject	Not subject
	Doc	Payee's Sworn Declaration and COR		Payee's Sworn Declaration and COR	
Above P3,000,000	IT	Subject to applicable rate	Subject to WT	Not entitled to avail	
	BT	Now subject to VAT	Subject to WT of VAT, if government payor		

* IT — Income tax; WT — Withholding tax; PT — Percentage tax; BT — Business tax.

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Based on the foregoing, if you qualified and availed of the 8% income tax, you are no longer required to file and pay the 3% percentage tax since the 8% income tax rate is in lieu of the graduated income tax rates and percentage tax under Section 116 of the Tax Code, as amended. It follows, therefore, that your income payments from LBP is not subject to the withholding of 3% percentage tax as clarified by RMO No. 23-2018 and RMC No. 50-2018.

Finally, please take note that the option to avail of the 8% income tax rate must be signified annually, on or before May 15 of each year.

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

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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CC: Presidential Complaint Center, Malacañang, Manila
Attention: Jaime Llaguno Mabilin, Director IV
PCC Code No. TE-JYC-09-18-2019-124

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