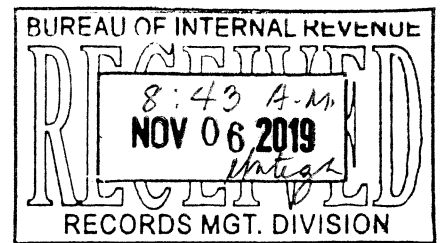




REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City



October 18, 2019

REVENUE MEMORANDUM CIRCULAR NO. 116-2019

SUBJECT : Clarifications on the Treatment of Alien Individuals Employed in the Philippines by Regional or Area Headquarters and Regional Operating Headquarters of Multinational Companies, Offshore Banking Units and Petroleum Service Contractors and Subcontractors Pursuant to Section 4.C of Revenue Regulations No. 8-2018

TO : All Internal Revenue Officials, Employees and Others Concerned

I. BACKGROUND

The pertinent provisions of Republic Act No. 10963, otherwise known as the “Tax Reform for Acceleration and Inclusion (TRAIN) Law” introduced the new tax treatment on the income earned by alien individuals from certain entities in the Philippines, which were, however, vetoed by the President. Its implementing provisions under Section 4.C of Revenue Regulations (RR) No. 8-2018 provide that:

“The preferential income tax rate under Subsection (C), (D) and (E) of Section 25 of the Tax Code, as amended, shall no longer be applicable without prejudice to the application of preferential tax rates under existing international tax treaties, if warranted. Thus, all concerned employees of regional or area headquarters and regional operating headquarters of multinational companies, offshore banking units and petroleum service contractor and subcontractor shall be subject to the regular tax rate under Sec. 24(A)(2)(a) of the Tax Code, as amended.”

II. CLARIFICATIONS

The respective incomes of the alien individuals employed by the above-stated entities are now similarly taxed as income of regular employees of locally established entities. Accordingly, these alien individuals are subject to the same administrative requirements of this Bureau being imposed on other regular employees, such as the substituted filing, issuance of BIR Form No. 2316, inclusion in the monthly withholding tax remittance on compensation, as well as in the prescribed alphalists, etc.

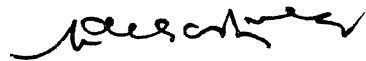
With respect to those alien individuals who are employed by foreign principals and who are assigned to render services exclusively to these local entities, otherwise known as “seconded employees or secondees”, they are likewise subject to the regular income tax rates. It is grounded on the principle of situs of taxation considering that the services rendered by these alien individuals are being performed within the Philippines,

regardless of whether their salaries are being paid by the foreign principals or advanced by these local entities.

For this purpose, the local entities, to whom the “seconded employees” render their services, shall comply the same administrative requirements, except for substituted filing, imposed by this Bureau for regular employees. In addition to these prescribed requirements, the following procedures shall be complied by all concerned:

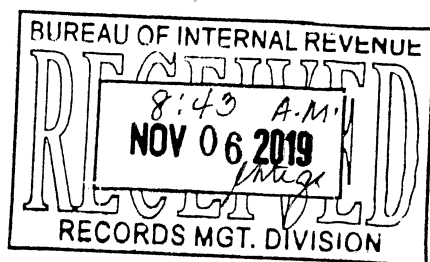
- (a) A separate employment status and description for “seconded employees” shall be provided in the “Current Employment Status” of the Alphabetical List of Employees/Payees from Whom Taxes Were Withheld under BIR Form No. 1604C, as well as in the Alphalist Data Entry and Validation Module version 6.1.
- (b) These “seconded employees” shall file their annual income tax return and pay the income tax due, if applicable, on or before the prescribe deadline of April 15 of each year, together with the attached BIR Form No. 2316 duly issued by the local entities.
- (c) In all copies of BIR Form No. 2316 to be issued to these employees, the phrase “For Seconded Employee” shall be typed or printed in bold capital letters enclosed in open and close parenthesis immediately under the form’s title “Certificate of Compensation Payment/Tax Withheld”.
- (d) In case of termination of their services before the end of the taxable year, the local entities shall ensure that the withholding tax on their last salaries shall be computed using the annualized withholding tax method, pursuant to the provisions of Sec. 2.29.(B).(5).b) of RR No. 2-98, as amended.

All internal revenue officers and employees are hereby enjoined to give this Circular as wide a publicity as possible.



CAESAR R. DULAY
Commissioner of Internal Revenue

030170



J-5