

**[ BIR REVENUE MEMORANDUM CIRCULAR NO. 27-11, July 01, 2011 ]**

**REVOCATION OF BIR RULING NOS. 002-99, DA-184-04, DA-569-04 AND DA-087-06**

This Circular is being issued to revoke **BIR Ruling Nos. 002-99** (dated January 12, 1999), **DA-184-04** (dated April 6, 2004), **DA-569-04** (dated November 10, 2004), and DA-087-06 (dated March 6, 2006) which excludes from the gross income of the taxpayer and hence, exempt from Income Tax, contributions to Pag-Ibig 2, GSIS, SSS, Life Insurance, Pre-Need Plan *in excess of the mandatory monthly contribution*; GSIS Optional Insurance Premium, GSIS Educational Plan Premium, GSIS Memorial Plan Premium, and GSIS Unlimited Optional Insurance Premium.

The abovementioned BIR Rulings rendered an opinion regarding Section 32 (B) (7) (f) of the NIRC of 1997, to wit:

*"Since the law and implementing regulations do not categorically state that the exemption covers only the regular GSIS and Pag-Ibig 2 contributions, it is safe to conclude that GSIS optional and Pag-Ibig 2 contributions are likewise excludible from the gross income of the taxpayer and hence, exempt from income tax."*

It has been observed that the grant of Income Tax exemption to SSS GSIS, PHIC and Pag-Ibig contributions *in excess of the mandatory contributions* is being abused. As an example, aside from the mandatory contribution of Php100.00/month to Pag-Ibig Fund and 1 % (for those with monthly compensation of Php1,500.00 and below) or 2% (for those with monthly compensation of over Php1,500.00) to PHIC, an employee may contribute additional Php1,000.00/month to Pag-Ibig 2 and Php1,000.00/month to PHIC as voluntary contributions which can be gleaned as a form of investment. The money being invested by the employees in these programs are not being taxed. Aside from that, employers which are mandated by the Bureau to correctly withhold the tax due of their employees (i.e., tax due is equivalent to tax withheld), find it difficult to comply since voluntary contributions by their employees may not always pass thru them.

The term contribution is defined in Republic Act (RA) No. 8291, otherwise known as The Government Service Insurance System Act of 1997, as follows:

*"SEC. 2. Definition of Terms. —*

xxx

xxx

xxx

*(j) Contribution — The amount payable to the GSIS by the member and the employer in accordance with Section 5 of this Act;"*

Moreover, Section 5 of RA No. 8291 provides:

*"SECTION 5. Contributions. — (a) It shall be mandatory for the member and the employer to pay the monthly contributions specified in the following schedule:*

xxx                      xxx                      xxx" (Underscoring provided)

Similarly, Section 8 of RA No. 8282, otherwise known as the Social Security Act of 1997, defined the term contribution, viz:

*"SECTION 8. Terms Defined. —*

xxx                      xxx                      xxx

*(i) Contribution — The amount paid to the SSS by and on behalf of the member in accordance with Section Eighteen of this Act."*

Subsequently, Section 18 of RA No. 8282 states:

*"SECTION 18. Employee's Contribution. — (a) Beginning as of the last day of the calendar month when an employee's compulsory coverage takes effect and every month thereafter during his employment, the employer shall deduct and withhold from such employee's monthly salary, wage, compensation or earnings, the employee's contribution in an amount corresponding to his salary, wage, compensation or earnings during the month in accordance with the /; following schedule. "*  
*(Emphasis provided)*

Further, the term Medicare "contribution" is defined in Section 4 of RA No. 7875, otherwise known as the National Health Insurance Act of 1995, as follows:

*"SECTION 4. Definitions of Terms. — For the purpose of this Act, the following terms shall be defined as follows:*

xxx                      xxx                      xxx

*d) Contribution — The amount paid by or in behalf of a member to the Program for coverage, based on salaries or wages in the case of formal sector employees and on household earnings and assets, in the case of the self-employed, or on other criteria as may be defined by the Corporation in accordance with the guiding principles set forth in Article I of this Act."*