

REVENUE MEMORANDUM ORDER NO. 42-2016 issued on July 21, 2016 prescribes the guidelines and procedures in the implementation of Republic Act (RA) No. 9505, otherwise known as the Personal Equity and Retirement Account (PERA) Act of 2008.

The BIR's PERA Processing Office (i.e., the Audit Information, Tax Exemption and Incentives Division (AITEID) under the Assessment Service) shall accept only Applications for Accreditation (BIR Form No. 1941) filed by pre-qualified PERA Administrator based on "Qualification Certificate" issued by the concerned Regulatory Authority (i.e., Bangko Sentral ng Pilipinas (BSP) or the Securities and Exchange Commission or the Insurance Commission).

Upon approval of the Application for Accreditation, the AITEID shall issue Certificate of Accreditation (BIR Form No. 2336) to the PERA Administrator, a copy of which shall be transmitted to the concerned Revenue District Offices (RDOs)/Offices under the Large Taxpayers Service (LTS) having jurisdiction over the PERA Administrator, for proper monitoring and to ensure that the PERA Administrator maintains a separate set of books of accounts to record all PERA contributions and related transactions (e.g., income earned by the PERA Assets, withdrawals, and/or terminations thereof).

The accreditation of a PERA Administrator shall be valid from the date of issuance of the Certificate of Accreditation until it is suspended or revoked for violation of any of the provisions of RA No. 9505, or for any of the grounds stated under Section 17 thereof, as enumerated under Rule 4.D of the Rules and Regulations Implementing the PERA Act of 2008.

The PERA Administrator shall be designated by the Contributor to handle the administration of PERA established by the employee which, together with the contribution made by the employer, if any, shall not exceed the employee's qualified PERA contribution. The PERA Administrator shall ensure that contributions (i.e., employees and/or employer, self-employed, Overseas Filipinos or in representation of such Overseas Filipinos) are under its exclusive administration through an on-line validation with the PERA Contributor's database to be established by the BSP.

Contributions to PERA can come from employees and/or their employers or self-employed individuals, which shall not exceed Php 100,000.00 per calendar year, or Php 200,000.00 per calendar year if the contributor is an Overseas Filipino.

A Contributor may create and maintain a maximum of five (5) PERAs at any one time. However, each PERA shall be confined to only one category of PERA Investment Product. Thus, a Contributor can have five (5) PERAs and five (5) categories of PERA Investment Products.

An employee or self-employed qualified Contributor shall be entitled to a five percent (5%) tax credit of the aggregate qualified PERA contributions made in a calendar year, which shall be allowed to be credited only against their Income Tax liabilities.

An Overseas Filipino Contributor with taxable income in the Philippines shall be entitled to a 5% tax credit to be claimed against any internal revenue tax liabilities, excluding his/her withholding tax liabilities as a withholding agent. However, Overseas Filipino Contributor without taxable income in the Philippines shall also be entitled to a 5% tax credit but will eventually be forfeited in favor of the government.

Tax credits arising from PERA contributions can be used as payment for delinquent accounts but in no case will it be refundable or convertible into cash or transferrable to any other party. A separate issuance will be released for the detailed procedure on the processing and utilization of tax credit.

A qualified employer's contribution to the employee's PERA shall not be entitled to 5% tax credit but can be claimed as a deduction from its gross income, but only to the extent of its

contribution that would complete the maximum allowable PERA contribution under Rule 8 of the Rules and Regulations Implementing the PERA Act of 2008. The qualified contribution shall likewise be exempt from Withholding Tax on compensation and Final Withholding Tax on fringe benefits.

The PERA Administrator shall file the following with the concerned RDOs/offices under the LTS having jurisdiction over the same:

- a. Certification of Aggregate Amount of Qualified PERA Contribution (BIR Form No. 2338) within forty five (45) days from the close of the calendar year; and
- b. Application for PERA-TCC (BIR Form No. 1942) within ninety (90) days from the end of the calendar year (for qualified Overseas Filipinos and self-employed Contributor);

An employee or self-employed or Overseas Filipino Contributor retains the prerogative to make investment decisions pertaining to his PERA, including contributions made by an employer in favor of an employee.

All income earned from the investments and re-investments of PERA assets in PERA Investment Products accredited by the concerned Regulatory Authority are not included in the maximum allowable PERA contribution. All income earned from the investments and re-investments of PERA assets in PERA investment products accredited by the concerned Regulatory Authority shall be exempt from Income Taxes but subject to other taxes applicable to the investment income (e.g., Percentage Tax, Value-Added Tax, Stock Transaction Tax and Documentary Stamp Tax).

The following are Qualified PERA Distributions (QPD), which shall be excluded from the gross income of the Contributor and shall not be subject to Income Tax nor to Estate Tax in the hands of the heirs or beneficiaries of the Contributor:

- a. QPD received by the Contributor after the Contributor and/or his/her employer has made qualified PERA contributions for at least five (5) years and the Contributor reaches the age of fifty-five (55);
- b. QPD received by the heirs or beneficiaries of the Contributor upon the death of the latter regardless of his/her age and the number of his/her yearly contributions at the time of his/her death;
- c. When the Contributor had an accident or illness-related hospitalization in excess of thirty (30) days, provided that there is a notarized doctor's certificate attesting to the facts of the case;
- d. When the Contributor becomes permanently totally disabled as defined under the Employees Compensation Law, Social Security Law or Government Service Insurance System Law, provided that he/she has a certification from the concerned government agency; or
- e. Immediate transfer of proceeds to another PERA Investment Product and/or another Administrator, who has been discredited either by the BIR or the concerned Regulatory Authority, within two (2) working days from withdrawal thereof.

The PERA Administrator shall submit, thru the AITEID e-mail, the quarterly and annual reports of PERA transactions (e.g., Qualified PERA Contributions, Income Earned by PERA Assets, Qualified PERA Distributions, Early Withdrawals or Terminations) made by Contributors under its administration within the prescribed deadline, as indicated in the Summary of Reports Required to be Submitted by the PERA Administrator (Annex "B" of this Order).

The concerned RDOs/LTS offices shall issue the following, as the case may be:

- a. Certification of Entitlement to 5% Tax Credit for Employee-Contributor (BIR Form No. 2339) of his/her qualified PERA contributions for release to the PERA Administrator which/who will, in turn, transmit such certificate to the employer for purposes of automatically adjusting the Withholding Tax on employee's compensation income; or
- b. PERA Tax Credit Certificate (TCC) to be issued in the name of the qualified Overseas Filipino or self-employed Contributor for release to the PERA Administrator, which/who shall, in turn, give to the PERA Contributor the said TCC (BIR Form 2337).

The concerned RDOs/LTS offices having jurisdiction over the PERA Administrator may recommend, after due notice, hearing and verification, the disqualification, suspension or revocation of accreditation of PERA Administrator under any of the grounds enumerated under Rule 4.D of the Rules and Regulations Implementing the PERA Act of 2008.

The concerned RDOs/LTS offices having jurisdiction over the PERA Administrator shall validate the computed amount of penalties imposed on the Contributor on his/her early withdrawal or termination and to verify the attached proof of payments of the said penalties based on the quarterly/annual report of early withdrawal or termination submitted by the PERA Administrator.

Taxes from all income earned from investments and reinvestments of PERA assets and utilized tax credits and the corresponding penalties imposed under the Tax Code shall be computed and deducted on the net proceeds of withdrawal or termination of PERA. A separate issuance will be released by the BIR on the computation of penalties under the different possible scenarios.

All the concerned offices shall monitor the compliance of all PERA Administrators under their respective jurisdiction. All undertakings of the concerned offices relative to this Order shall be monitored by the AITEID and shall be factored in the evaluation of their respective performance based on Key Performance Indicators.

All concerned Information Systems Group offices shall provide adequate support to AITEID and the concerned RDOs/LTS offices to ensure the proper dissemination of data/information to the concerned offices and for the coordinated monitoring of the tax privileges and incentives granted under the PERA Act.

The Revised Schedule of Compromise Penalties under Revenue Memorandum Order No. 7-2015 shall be imposed for each and every case of non-submission or late submission of required reports during a taxable year by PERA Administrator. For this purpose, failure to supply any of the reports required shall constitute a single act of omission.

The PERA Administrator shall attest to the completeness and accuracy of the data/information contained in all the prescribed reports summarized in Annex "B". Failure to supply correct and accurate information shall be a ground for the invalidation of its accreditation and shall subject the PERA Administrator to the applicable criminal penalty under Sec. 255 of the Tax Code, as amended.

All data pertaining to PERA transactions shall be considered strictly confidential and shall be utilized exclusively for internal revenue tax purposes. The heads of the concerned offices shall be responsible for all PERA data furnished/disseminated to their respective offices and the same shall not be divulged to any unauthorized personnel within and outside the Bureau. Any unauthorized disclosure by any revenue personnel shall be a ground for the imposition of administrative sanctions and filing of appropriate charges against the erring official or employee. Any information that will not require disclosure of the name of the Contributor is excluded from the prohibition, for regulatory purposes.