

REGULATIONS AMENDING REVENUE REGULATIONS NO. 10-94, OTHERWISE KNOWN AS THE REVISED AND CONSOLIDATED VALUE ADDED TAX REGULATIONS

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Pursuant to the provisions of Section 245 of the National Internal Revenue Code, as amended, in relation to Section 19 of Republic Act No. 7716, these Regulations are hereby promulgated to amend Revenue Regulations No. 10-94.

SECTION 1. On Export Sales. — Section 2, paragraph (j) (5) of Revenue Regulations No. 10-94 is hereby amended to read as follows:

"(5) Those considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, and other special laws, e.g., SBMA Law, R.A. 7227. IT SHALL INCLUDE SALES TO BOI-REGISTERED FIRMS, AS WELL AS ENTERPRISES OPERATING WITHIN THE EXPORT PROCESSING ZONE AUTHORITY REGARDLESS OF THE BASIC LAW UNDER WHICH THEY ARE REGISTERED."

SECTION 2. Definition of "In the course of trade or business." — Section 2, paragraph (p) of Revenue Regulations No. 10-94 is hereby amended to read as follows:

In the course of trade or business" means the regular conduct or pursuit of a commercial or an economic activity, including transactions incidental thereto, by any person regardless of whether or not the person engaged therein is a non-stock, non-profit private organization (irrespective of the disposition of its net income and whether or not it sells exclusively to members or their guests), or government entity.

"HOWEVER, ANY BUSINESS WHERE THE GROSS SALES OR RECEIPTS DO NOT EXCEED P100,000.00 DURING ANY 12-MONTH PERIOD SHALL BE CONSIDERED PRINCIPALLY FOR SUBSISTENCE OR LIVELIHOOD AND NOT IN THE COURSE OF TRADE OR BUSINESS.

"The rule of regularity to the contrary notwithstanding, services as defined in the Code rendered in the Philippines by non-resident foreign persons shall be considered as being rendered in the course of trade or business."

SECTION 3. Definition of "Lending Investors." — Section 2, paragraph (t) of Revenue Regulations No. 10-94 is hereby to read as follows:

Lending Investors — include all persons, OTHER THAN BANKS, NON-BANK FINANCIAL INTERMEDIARIES, FINANCE COMPANIES AND OTHER FINANCIAL INTERMEDIARIES NOT PERFORMING QUASI-BANKING FUNCTIONS, who make a practice of lending money for themselves or others at interest."

SECTION 4. On franchise grantees. — Section 8, paragraph (f) of Revenue Regulations No. 10-94 is hereby amended to read as follows:

"(f) Services of franchise grantees of telephone and telegraph, radio and television broadcasting and all other

franchise grantees except electric, gas and water utilities shall be subject to VAT. However, they are no longer subject to the franchise tax on their gross receipts derived from their franchised operations under their respective charters or Section 117 of the Code."

SECTION 5. On zero-rated sale of goods. — Section 11, paragraph (b)(1) of Revenue Regulations No. 10-94 is hereby amended to read as follows:

"(1) Export sales as defined in Section 2(j) and (g) of these Regulations.

Any NON-BOI-REGISTERED enterprise whose export sales exceed 70% of total annual production of the preceding taxable year shall be considered an exporter upon accreditation as such by the Export Development Council."

SECTION 6. On transactions subject to zero-rate. — Section 11, paragraph (c)(4) of Revenue Regulations No. 10-94 is hereby amended to read as follows:

"(4) Services rendered to ships engaged exclusively in international shipping; and"

SECTION 7. On exempt transactions: Educational services. — Section 12, paragraph (B)(m) of Revenue Regulations No. 10-94 is hereby amended to read as follows:

"(m) Educational services exempted refer to academic, technical or vocational education provided by private educational institutions duly accredited by the Department of Education, Culture and Sports and those rendered by government educational institutions AND SHALL INCLUDE THE SALE OR RENTAL OF TEXTBOOKS USED IN THE ABOVE ACTIVITIES BY SUCH EDUCATIONAL INSTITUTIONS. It does not include seminars, in-service training, review classes and other similar services rendered by persons who are not accredited by the Department of Education, Culture and Sports."

SECTION 8. On exempt transactions: sale or lease of real properties. — Section 12, paragraph (B)(s) of Revenue Regulations No. 10-94 is hereby amended to read as follows:

"(s) Sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business or real property utilized for low-cost and socialized housing as defined by R.A. No. 7279, otherwise known as the "Urban Development and Housing Act of 1992," and other related laws.

"LEASE OF RESIDENTIAL UNITS, BOARDING HOUSES, DORMITORIES, ROOMS AND BEDSPACES OFFERED FOR RENT BY THEIR OWNERS AT A MONTHLY RENTAL OF NOT MORE THAN THE AMOUNT ALLOWED UNDER THE RENT CONTROL LAW (EQUIVALENT TO P2,750.00 PER MONTH THIS YEAR, SUBJECT TO THE ANNUAL ADJUSTMENT PROVIDED UNDER THE RENT CONTROL LAW), SHALL NOT BE SUBJECT TO VAT. THE TERM "RESIDENTIAL UNITS" SHALL REFER TO APARTMENTS, HOUSES, AND/OR LANDS ON WHICH ANOTHER'S DWELLING IS LOCATED, USED FOR RESIDENTIAL PURPOSES AND SHALL INCLUDE NOT ONLY BUILDINGS, AND PARTS OR UNITS THEREOF USED SOLELY AS DWELLING PLACES, EXCEPT MOTELS, MOTEL ROOMS, HOTELS, AND HOTEL ROOMS. "RESIDENTIAL UNITS" SHALL ALSO INCLUDE APARTMENTS, HOUSES, BUILDINGS, AND PARTS OR UNITS THEREOF USED FOR HOME INDUSTRIES, RETAIL STORES OR OTHER BUSINESS PURPOSES IF THE OWNER THEREOF AND HIS FAMILY ACTUALLY LIVE THEREIN AND USE THEM PRINCIPALLY FOR DWELLING PURPOSES.

"A SALE OF A REAL PROPERTY NOT PRIMARILY HELD FOR SALE TO CUSTOMERS OR HELD FOR LEASE IN THE ORDINARY COURSE OF TRADE OR BUSINESS SHALL NOT BE CONSIDERED SUBJECT TO VAT PROVIDED, HOWEVER, THAT NO INPUT TAX HAS BEEN RECOGNIZED THEREON AT THE TIME OF ITS ACQUISITION. INPUT TAX IS PRESUMED TO HAVE BEEN

RECOGNIZED IN THE FOLLOWING CASES.

"(A) THE REAL PROPERTY SOLELY CONSISTS OF A PIECE OF LAND, WITHOUT IMPROVEMENT, AND WAS ACQUIRED BY THE SELLER/TRANSFEROR ON OR AFTER MAY 28, 1994;

"(B) IN RESPECT ONLY OF THE IMPROVEMENT, IF THE PROPERTY CONSISTS OF (I) LAND ACQUIRED BEFORE MAY 28, 1994, AND (II) IMPROVEMENT INTRODUCED BY THE SELLER/TRANSFEROR ON OR AFTER JANUARY 1, 1988;

"PROVIDED, HOWEVER, THAT THE SELLER/TRANSFEROR IS A VAT-REGISTERED PERSON AT THE TIME THE SAID PIECE OF LAND WAS ACQUIRED, ALSO FROM A VAT-REGISTERED PERSON, OR THE IMPROVEMENT WAS INTRODUCED, AS THE CASE MAY BE.

"IF, BASED ON THE FOREGOING, IT IS CONSIDERED THAT THE SELLER/TRANSFEROR RECOGNIZED INPUT TAX AT THE TIME OF ACQUISITION OF THE REAL PROPERTY AND/OR IMPROVEMENT, HE SHALL PAY A TEN PERCENT VAT ON THE SALE EVEN IF HE DID NOT HOLD SUCH PROPERTY PRIMARILY FOR SALE OR FOR LEASE, COMPUTED ON THE BASIS OF HIS ACQUISITION COST THEREFOR AS SHOWN IN HIS BOOKS OF ACCOUNTS AND UNDERLYING ACCOUNTING RECORDS."

SECTION 9. On exempt transactions: Print Media, charitable, religious or educational institutions. — Section 12 of Revenue Regulations No. 10-94 is hereby amended by adding thereto paragraphs (u), (v) and (w) to read as follows:

"(u) THE CIRCULATION INCOME OF PRINT MEDIA PURSUANT TO SECTION 4, ARTICLE III OF THE 1987 PHILIPPINE CONSTITUTION GUARANTEEING AGAINST ABRIDGEMENT OF THE FREEDOM OF THE PRESS, AMONG OTHERS;

"(v) IMPORTATION OR SALE OF RELIGIOUS ARTICLES, E.G., BIBLES, CRUCIFIX, ETC. IN THE EXERCISE OF RELIGIOUS VOCATION OR WORSHIP PURSUANT TO SECTION 28(3), ARTICLE VI OF THE 1987 PHILIPPINE CONSTITUTION."

"(w) FOREIGN DONATIONS OF FOOD, CLOTHING MATERIALS, BOOKS, AND SIMILAR ARTICLES CONSIGNED TO CHARITABLE, RELIGIOUS OR EDUCATIONAL INSTITUTIONS INTENDED FOR THEIR OWN USE OR FOR FREE DISTRIBUTION."

SECTION 10. On non-VAT registrants. — Section 22 of Revenue Regulations No. 10-94 is hereby amended by adding another paragraph as No. 3 thereof, to read as follows:

"The following shall be considered as non-VAT registrants:

"1. VAT-exempt person under Section 103 (a), (b), (c), (d) and (t) of the Code who did not opt to register as VAT taxpayers;

"2. Persons engaged in trade or business, or exercise of profession, other than those subject to VAT and other percentage taxes under Title V of the Code. Any taxpayer who sells goods in the course of his trade or business shall register the place where his inventory of goods for sale or for use in business is kept as well as any of his branch office(s);

"3. ANY BUSINESS WHERE THE GROSS SALES OR RECEIPTS DO NOT EXCEED P100,000.00 DURING ANY 12-MONTH PERIOD SHALL BE CONSIDERED PRINCIPALLY FOR SUBSISTENCE OR LIVELIHOOD AND NOT IN THE COURSE OF TRADE OR BUSINESS, THEY ARE REQUIRED TO

REGISTER BUT WILL NOT BE MADE TO PAY THE REGISTRATION FEE OF P1,000.00;

"4. Non-stock, non-profit organizations and associations engaged in trade or business whose gross receipts do not exceed P500,000.00 for any 12-month period."

SECTION 11. On invoicing requirements. — Section 29, paragraph (a) of Revenue Regulations No. 10-94 is hereby amended to read as follows:

"Sec. 29. (a) Invoicing Requirements. — All VAT-registered persons shall, for every sale or lease of goods or properties or services, issue duly registered receipts or sales or commercial invoices which must show.

"(1) A statement that the seller is a VAT registered person, followed by his TIN; and

"(2) The total amount which the purchaser pays or is obligated to pay to the seller.

"Only VAT registered persons can print their TIN, followed by the word "VAT", which shall be their VAT registration number, in their invoices or receipts and this shall be considered as a "VAT" Invoice". All purchases covered by invoices other than "VAT" Invoice" shall not give rise to any input tax.

"If the taxable person is also engaged in exempt operations, he should issue separate invoices or receipts for the taxable and exempt operations. A "VAT Invoice" shall be issued only for sales of goods or services subject to VAT imposed in Sections 100 and 102 of the Code.

"THE INVOICE OR RECEIPTS SHALL BE PREPARED AT LEAST IN DUPLICATE, THE ORIGINAL TO BE GIVEN TO THE BUYER AND THE DUPLICATE TO BE RETAINED BY THE SELLER AS PART OF HIS ACCOUNTING RECORDS."

SECTION 12. On transactions exempt from VAT and from percentage tax. — Section 32 of Revenue Regulations No. 10-94 is hereby amended by adding a new section as SEC. 32-A, to read as follows:

"Sec. 32-A. TRANSACTIONS EXEMPT FROM VAT AND FROM PERCENTAGE TAX. — ANY BUSINESS WHERE THE GROSS SALES OR RECEIPTS DO NOT EXCEED P100,000.00 DURING ANY 12-MONTH PERIOD SHALL BE EXEMPT FROM THE PAYMENT OF VAT AND FROM THE PERCENTAGE TAX IMPOSED UNDER SECTION 112 OF THE CODE, AS AMENDED."

SECTION 13. Effectivity. — These amendatory regulations shall take effect fifteen days after publication in a newspaper of general circulation in the Philippines.

Adopted: 27 June 1994

(Sgd.) ROBERTO F. DE OCAMPO
Secretary of Finance

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