CLARIFICATORY GUIDELINES OF PPA MC NO. 13-88 REGARDING EXECUTIVE ORDER NO. 273, THE VALUE ADDED TAX LAW

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Authority

1.1 Executive Order No. 273, the Value Added Tax Law

1.2 PPA Memorandum Circular No. 13, Series of 1988

1.3 Revenue Regulations No. 5-87

1.4 Revenue Memorandum Circular No. 20-88

1.5 Memorandum Circular No. 09-88

1.6 Revenue Regulations No. 05-93

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Purpose

To clarify supplement the provision of PPA Memorandum Circular No. 13, series of 1998 dated 21 April 1998 entitled "Implementing Guidelines on the Applicability of the Value Added Tax (VAT) insofar as the Philippine Ports Authority is concerned".

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Guidelines

3.1 Nature of Value Added Tax

3.1.1 Value Added Tax (VAT) is an indirect tax which can be legally shifted or passed on to the buyer of goods and services.

3.1.2 All Port charges, fees and dues of this Authority are exclusive of VAT, hence, in the collection of charges subject to Value Added Tax, 10% VAT shall be added thereto.

3.1.3 On the same principle, the shifting of VAT by cargo handling operators to the port users/cargo owners/clients is also proper.

3.2 VAT Exempt PPA Charges Per E.O. 273

> 3.2.1 Fees and charges which arise from the use of government facilities are exempt from VAT (RMC No. 20-88), viz:
>
> 3.2.1.1 Harbor /Port dues
>
> 3.2.1.2 Berthing/Anchorage/Dockage Fees

3.2.1.3 Usage Fees

3.2.1.4 Wharfage Dues

3.2.1.5 Storage Fees

3.2.1.6 Lay-up Fees

3.2.2 Zero-rated (in effect VAT exempt) PPA charges per Section 102 E.O. 273 and RMC No. 09-88.

All charges against the vessels of foreign shipping companies paid thru the members of the Association of International Shipping Lines, Inc. (AISL).

3.2.3 Other VAT EXEMPT PPA Charges per Sec. 103 E.O. 273.

3.2.3.1 Rental/Lease charges on real properties

3.2.3.2 Harbor Pilot's fees

3.2.3.3 Administrative Fines

3.2.3.4 Water Supply Services charges

3.2.3.5 Electrical Consumption charges

3.2.3.6 Fees and charges to passengers, consignees, shippers and the general public pertaining to board and lodging, food transportation, parking/garage.

3.3 PPA Charges Subject to VAT per E.O. 273

3.3.1 Government Share on the Income of Cargo Handling Operators from cargo handling charges.

3.3.1.1 Fixed fees and/or variable fees

3.3.1.2 Revised fixed fees

3.3.1.3 Percentage government share

3.3.2 Rental/lease charges on the dredgers, cargo handling equipment and other movable properties.

3.3.3 Non-Traditional Fees and Charges

3.3.3.1 Port related ancillary services

3.3.3.1.1 Services on cargoes

3.3.3.1.1.1 cargo checking

3.3.3.1.1.2 cargo surveying

3.3.3.1.1.3 equipment/appliance hire

3.3.3.1.1.4 security services

3.3.3.1.1.5 special cargo storage services

3.3.3.1.1.6 warehousing

3.3.3.1.1.7 weighbridge/truck scale

3.3.3.1.2 Services on Vessels

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3.3.3.1.2.1 bunkering

3.3.3.1.2.2 docking

3.3.3.1.2.3 mooring

3.3.3.1.2.4 towing/tugging

3.3.3.1.2.5 vessel maintenance/repair services

3.3.3.1.3 Service on passengers, consignees, shippers and the general public

3.3.3.1.3.1 passenger terminal services

3.3.3.1.3.2 porterage services

3.3.3.2 Terminal ancillary services

3.3.3.2.1 Services on cargoes

3.3.3.2.1.1 container repair

3.3.3.2.2 Services on vessels

3.3.3.2.2.1 chandling

3.3.3.2.2.2. cleaning services

3.3.3.2.2.3 fumigation

3.3.3.2.2.4 laundering

3.3.3.2.2.5 phone-patch service

3.3.3.2.2.5 waste disposal

3.3.3.2.2.6 water-taxi

3.3.4 Management/Commitment Fees

3.3.4.1 Fixed fees except the portion classified as lease rental which per E.O. 273 is exempt from VAT

3.3.4.2 variable fees

3.3.5 Collection fees

3.3.6 All other charges not classified under VAT exempt charges

3.4 Illustrative Computation

Example 1 ABC Arrastre & Stevedoring Co. was granted a Management Contract with financial obligations to PPA as follows:

Annual Fixed Fee of P591,000.00 payable in 12 monthly equal installments 10% Variable Fee on income in excess of required tonnage

For the month of January, 1995, the company, has a gross income of P1,085,520.00, P500,000.00 of which is subject to Variable Fees.

Monthly Fixed Fee P49,250.00

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Add: 10% VAT 4,925.00
Sub-Total P54,175.00

Variable Fee P50,000.00
Add: 10% VAT 5,000.00
Sub-Total 55,000.00

Total Payable to PPA P109,175.00

Example 2 MNO Arrastre & Stevedoring Co. was granted a Management Contract with financial obligations to PPA as follows:

Annual Fixed Fee of P1,670,000.00 payable in 12 monthly equal installments in its first year of operation.

Thereafter, subject fixed fee shall be increased yearly by a minimum of 5% compounded annually until the expiration of the contract.

On its first year of operation, the company has a gross income of P1,625,000.00 for the month of January, 1995.

Monthly Fixed Fee P139,166.67
Add: 10% VAT 13,916.67
Total Payable to PPA P153,083.34

On its second year of operation, the company has a gross income of P1,500,000.00 for the month of January.

Monthly Fixed Fee P146,125.00
Add: 10% VAT 14,612.50
Total Payable to PPA P160,737.50

Example 3 PQR Arrastre & Stevedoring Co. was granted a Management Contract under the terms and conditions, among others, that it will remit to PPA 10% government share on its gross income.

For the month of January 1995, the company has a gross income of P12,386,000.00

10% Government Share P1,238,600.00
Add: 10% VAT 123,860.00
Total Payable to PPA P1,362,460.00

Example 4 XYZ Arrastre & Stevedoring Co. was granted a Management Contract under the direct collection system whereby it will collect from port user/cargo owner 90% of the cargo handling charges and PPA shall directly collect from the port user/cargo owner the 10% Government Share.

For the month of January, 1995, the company has a gross income of P12,386,000.00

In this example, XYZ Arrastre & Stevedoring Co., should have collected its own share of P11,147,400 plus P1,114,740 VAT from the port users/cargo owners. It has nothing to remit to PPA since the 10% Government Share plus VAT thereof is collected directly by PPA from the port users/cargo owners and has issued PPA Official Receipt therefor, computed as follows:

Direct Collection of 10%
Government Share P1,238,600.00
Add: 10% VAT 123,860.00
Total Collection of PPA P1,362,460.00

3.5 Effect of VAT to Cargo Handling/Management/Collection Contractor

3.5.1 The 10% Value Added Tax collected by the contractors from the port users/cargo owners and from their other customers in addition to the basic charge/price is technically called output VAT".

3.5.2 The 10% Value Added Tax paid by the contractors to PPA and to their suppliers in addition to the basic charge/price is technically called "Input VAT".

3.5.3 In the VAT remittance of the contractors to BIR, only the excess of VAT collections after deducting their VAT payments shall be remitted to BIR. In case their total VAT payment is bigger than their VAT collections, there will be no remittances to BIR for the month/quarter and the excess/difference can still be claimed in the exceeding month/s (until exhausted) as Input VAT Carry Over.

3.5.4 VAT payment to PPA, is claimed as deductible Input VAT by the contractor on the month that actual payment thereof was made. It is deducted from any VAT collections of that month before remittance of the net is made to BIR.

3.6 Reporting Mechanics

3.6.1 Section 110, E.O 273 provides that only one consolidated VAT Return shall be filed by a company for all the branches and lines of business subject to Value Added Tax.

3.6.2 The PDOs and PMOs have been required to submit their respective reports to the Head Office-OAGM FAMS for consolidation. The procedures and financial guidelines therefor are detailed in PPA Memorandum Order No.15-88 dated May 2, 1988 entitled "Financial Guidelines Regarding the Implementation of E.O. 273 (The VAT Law)".

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Repealing Clause

4.1 All PPA issuances inconsistent herewith are hereby amended/modified accordingly.

4.2 This Circular shall be subject to revision in accordance with the provision of the implementing Guidelines on R.A. No. 7716 for the Amendment of E.O. 273, after its implementation shall have been cleared by the proper court where a case is pending thereon.

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Effectivity

This Order takes effect immediately.

Adopted: 28 April 1995

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