NATIONAL ADMINISTRATIVE REGISTER · NOVEMBER 10, 1998

PAYMENT OF NATIONAL INTERNAL REVENUE TAXES IN THE FORM OF TAX CREDIT CERTIFICATE (TCC), UNDER CERTAIN CONDITIONS, PURSUANT TO SECTION 204 OF THE TAX CODE OF 1997

BIR REVENUE MEMORANDUM ORDER NO. 86-98, November 10, 1998

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SECTION 1. Scope. — This Order is issued to ensure a uniform compliance with the pertinent provisions of Section 204 of the Tax Code of 1997, as follows:

> "A Tax Credit Certificate validly issued under the provisions of this Code may be applied against any internal revenue tax, excluding withholding taxes, for which the taxpayer is directly liable. Any request for conversion into refund of unutilized tax credits may be allowed, subject to the provisions of Section 230 of this Code: Provided, That the original copy of the Tax Credit Certificate showing a creditable balance is surrendered to the appropriate revenue officer for verification and cancellation: Provided, further That in no case shall a tax refund be given resulting from availment of incentives granted pursuant to special laws for which no actual payment was made."

SECTION 2. Coverage. — All concerned are hereby enjoined to strictly implement the above provisions of law, as follows:

- TCC issued prior to January 1, 1998. — A TCC duly issued under the provisions of the National Internal Revenue Code prior to January 1, 1998 shall not be accepted in payment of the taxpayer's internal revenue tax liabilities, unless the same has been duly revalidated pursuant to the provisions of Section 230 of the said Code, as implemented by Revenue Regulations No. 7-98, dated July 9, 1998.

- TCC issued beginning January 1, 1998. — A TCC duly issued under the provisions of the National Internal Revenue Code beginning January 1, 1998 may be used by its grantee in payment of his internal revenue taxes, except his withholding tax liability.

- Kinds of internal revenue taxes against which a TCC may be applied in payment; Exception. — Subject to the provisions of the preceding paragraphs, any TCC duly issued by the Commissioner of Internal Revenue, or his duly authorized representative, under the provisions of the National Internal Revenue Code may be used by its grantee in payment of his internal revenue taxes, such as income taxes, estate and donor's taxes, value-added tax, percentage taxes, excise taxes and documentary stamp taxes, except his withholding tax liability.

- Meaning of a TCC "issued under the provisions of the Code"; Exception. — (a) This term is limited only to any TCC issued under the pertinent provisions of the National Internal Revenue Code, such as, but not limited to, a TCC duly issued by the Commissioner of Internal Revenue, or his duly authorized representative, for taxes erroneously paid by or illegally collected from the taxpayer, excess credit for creditable income taxes withheld from income derived, or a TCC duly issued to a VAT-registered taxpayer on account of his transactions subject to zero percent (0%) value-added tax. (b) Exception. — The term "issued under the provisions of the Code" does not include any TCC issued pursuant to the provisions of any law, other than the National Internal Revenue Code, such as a TCC issued pursuant to the provisions of the Omnibus Investments Code, the Tariff and Customs Code, or other general or special law.

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- TCC issued pursuant to the provisions of any law other than the NIRC . — Any TCC duly issued pursuant to the provisions of any law, other than the National Internal Revenue Code, may only be used, subject to the limitations of the law and regulations under which the same has been issued.

5.1 TCC issued by the Bureau of Customs. — Any TCC issued by the Commissioner of Customs, or his duly authorized representative, pursuant to Section 106 of the Tariff and Customs Code, as Duty Drawbacks, may only be used in payment of the grantee's liability to the Bureau of Customs for duties, charges and taxes on his importation, the provisions of Section 12(a) of the NIRC notwithstanding. It may not be used in payment of his internal revenue tax liabilities directly payable to the Bureau of Internal Revenue.

5.2 TCC issued under the Omnibus Investments Code. — A TCC issued by the Board of Investments, or its duly authorized representative, pursuant to the provisions of the Omnibus Investments Code, as amended, may only be used for the purposes for which the same has been issued to the grantee, in accordance with the provisions of the Omnibus Investments Code and its implementing rules and regulations. Any TCC issued jointly by the Board of Investments (BOI) and the Bureau of Internal Revenue (BIR), pursuant to the provisions of the Omnibus Investments Code and its implementing rules and regulations, may be used by the grantee or his qualified transferee, in payment of the grantee/transferee's internal revenue taxes, except his withholding tax liabilities: Provided, however, That any TCC issued jointly by the Board of Investments (BOI) and the Bureau of Customs (BOC), pursuant to the provisions of the Omnibus Investments Code and its implementing rules and regulations, shall not be used in payment of the grantee/transferee's liability for any internal revenue tax directly payable to the BIR, the provisions of Section 12(a) of the NIRC notwithstanding, hence, the same may only be used in payment of customs duties, charges and taxes on his importation, directly payable to the Bureau of Customs.

SECTION 3. Sanction. — Strict compliance herewith is enjoined. Any violation of this Order shall be subject to disciplinary action and shall be dealt with accordingly.

SECTION 4. Effectivity. — This Order shall take effect immediately.

Adopted: 10 Nov. 1998

(SGD.) BEETHOVEN L. RUALO
Commissioner of Internal Revenue

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