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DIGEST OF VAT RULINGS FOR SEPTEMBER, OCTOBER, NOVEMBER AND DECEMBER 1991

BIR REVENUE MEMORANDUM CIRCULAR NO. 24-92, April 24, 1992

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Attached herewith as Annex "A" are the Digests of VAT Rulings issued in the months of September, October, November and December 1991.

For the information and guidance of all concerned.

Adopted: 24 April 1992

(SGD.) JOSE U. ONG
Commissioner of Internal Revenue

Annex "A"

Digest of VAT Rulings, for September 1991

1. P.D. No. 1442 does not exempt service contractors engaged in the exploration and development of geothermal resources from indirect taxes. Rather, said law only exempts service contractors from tax on their importation of machinery and equipment, spare parts and materials required for their geothermal operations, i.e., exemption from import taxes for which they may otherwise be directly liable. Said exemption does not include the 10% VAT on their local supplies because this tax is a direct liability of suppliers of goods and services and which is only indirectly passed on by such suppliers to customers, hence, in the nature of an indirect tax. In the hands of such customers, the VAT paid by suppliers on their sales (direct tax) and passed on indirectly to their customers as part of the invoice price (indirect tax) losses the character of a tax and becomes a mere part of the purchase price. (See Phil. Acetylene Co. vs. CIR, CTA Case No. 708, Sept. 17, 1965) (VAT Ruling No. 078-91 dated September 9, 1991)

2. A VAT-registered cement manufacturer utilizing coal for heating purposes in its cement plant, is entitled to transitory input tax credits under Sec. 25(a)(1) and (2) of E.O. No. 273 as follows:

a) On the balance of its accumulated deferred sales tax credits as of Dec. 31, 1987 vis-a-vis raw materials, parts, accessory or other articles purchased for conversion into or intended to form part of the cement manufacture, i.e., direct materials to manufacture cement, pursuant to Sec. 25(a)(1), E.O. No. 273; and

b) A statutory presumptive transitory input tax credit equivalent to 8% of the value of its coal inventory as of Dec. 31, 1987, i.e., indirect materials in the manufacture of cement, the tax components of which were not claimed as part of the manufacturer's deferred sales tax credit. However, coal purchased from service contractors who entered into a contract with the government and who are exempted from all taxes except income tax pursuant to PD's 87, 972 and 1442, should not form part of the inventory of coal of the manufacturer to be entitled to the 8% presumptive transitional input tax. (VAT Ruling No. 079-91 dated September 9, 1991)

3. A VAT-registered importer of children's books is exempt from VAT pursuant to Sec. 103(f) of the Tax Code,

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as amended. The aforesaid tax exemption provision applies on the total landed cost of the importation which includes the 9% import levy as provided under E.O. No. 443. Since the importation of children's books is an exempt transaction, the imposition of the import levy will not affect the exemption granted on the transaction. (VAT Ruling No. 080-91 dated September 9, 1991)

4. Printing, publication or sale of books and any newspaper, magazine, review or bulletin which appears at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication of advertisements, is exempt from VAT under Sec. 103(f) of the Tax Code, as amended. However, if a company engaged in the aforementioned services opts to be VAT-registered in accordance with Sec. 107 (d) of the same Code, it shall become liable to pay the VAT on its printing services that it renders to others, e.g., publishers. Since VAT is an indirect tax, it can be passed on to the buyer as an additional cost for the printing services. (VAT Ruling No. 081-91 dated September 9, 1991)

5. A VAT-registered exporter, which exports all of its manufactured products is entitled to claim for refund of the input taxes on its purchases of services from a contractor engaged to construct its factory and other civil works to be used exclusively in its VAT-registered business operation, provided that the contractor is VAT-registered and it issued VAT official receipts to the registered exporter for its compensation or service fees; and that the proceeds of the export sales of said exporter have been accounted for in accordance with Central Bank (CB) regulations. Said claim for refund may be applied for within two years from the date of exportation and to the extent that such input tax has not been applied against output tax and upon presentation of proof that the foreign exchange proceeds have been accounted for in accordance with CB regulations. (VAT Ruling No. 082-91 dated September 9, 1991, as supported by VAT Ruling No. 086-90)

6. The sale of cotton, which is an agricultural non-food product in its original state, by the producer, whether cooperative or not, or by the owner of the land where the same is produced, is exempt from VAT pursuant to Sec. 103(a) of the Tax Code, as amended. If the cotton sold by the producers to a ginnery is, subsequently, sold by the latter to textile mills after removing the cotton seeds, the latter sale is subject to 10% VAT under Sec. 100 (a) of the same Code. Furthermore, the sale by textile mills of the cotton finally manufactured into textile mills of the cotton finally manufactured into textile to garment manufacturers is also subject to 10% VAT. However, if the garment manufacturer exports the finished products, its export sales shall be subject to 0% VAT. Moreover, the 10% VAT that has been passed on by the textile mill to the garment manufacturer may be credited against the VAT liability of the garment manufacturer, tax credited or refunded.

Imported cotton is subject to 10% VAT pursuant to Sec. 101 of the Tax Code, as amended. If the imported cotton is processed into textile by textile mills and subsequently sold to garment manufacturers, the sale is also subject to 10% VAT in the same manner as the sale of textile manufactured out of locally-produced cotton. (VAT Ruling No. 087-91 dated September 4, 1991)

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