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PRESCRIBING THE REGULATIONS GOVERNING THE MANNER OF THE ISSUANCE OF TAX CREDIT CERTIFICATES, AND THE CONDITIONS FOR THEIR USE, REVALIDATION AND TRANSFER

BIR REGULATIONS NO. 5-2000, July 19, 2000

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Pursuant to Section 244 in relation to Sections 76, 112, 130, 135, 204 and 230 all of the Tax Code of 1997, these Regulations are hereby promulgated to prescribe the rules governing the issuance of BIR-issued Tax Credit Certificates (TCCs), and the conditions for their use, conversion, revalidation and transfer.

SECTION 1. Definition of Terms. —

A. Tax Credit — For purposes of these Regulations, the term "tax credit" shall refer to the amount due to a taxpayer resulting from an overpayment of a tax liability or erroneous payment of a tax due.

B. Tax Credit Certificate — means a certification, duly issued to the taxpayer named therein, by the Commissioner or his duly authorized representative, reduced in a BIR Accountable Form in accordance with the prescribed formalities, acknowledging that the grantee-taxpayer named therein is legally entitled a tax credit, the money value of which may be used in payment or in satisfaction of any of his internal revenue tax liability (except those excluded), or may be converted as a cash refund, or may otherwise be disposed of in the manner and in accordance with the limitations, if any, as may be prescribed by the provisions of these Regulations.

C. Tax Debit Memo — means a certification, duly issued by the Commissioner or his duly authorized representative, reduced in a BIR Accountable Form in accordance with the prescribed formalities, acknowledging that the taxpayer named therein has duly paid his internal revenue tax liability in the form of and through the use of a Tax Credit Certificate, duly issued and existing in accordance with the provisions of these Regulations. The Tax Debit Memo shall serve as the official receipt from the BIR evidencing a taxpayer's payment or satisfaction of his tax obligation. The amount shown therein shall be charged against and deducted from the credit balance of the aforesaid Tax Credit Certificate.

D. Direct Internal Revenue Tax Liability — shall refer to taxes for which the taxpayer is made statutorily liable. In essence, "direct internal revenue tax liability" pertains to the liability of a person mandated by law to file the tax return and pay the tax due thereon.

SECTION 2. Sources of Tax Credit. — A tax credit is being granted for the following:

(a) At the option of the taxpayer, excess quarterly income taxes paid reflected in the final adjustment return.

(b) At the option of the taxpayer, overwithholding at source of income taxes to the extent that the amount of such overpayment was not deducted or applied against income tax due.

(c) Input taxes as follows:

i. Attributed to zero-rated sales made by VAT-registered taxpayer including export sales by a VAT-registered exporter;
ii. Attributed to effectively zero-rated sales made by VAT-registered taxpayer; and

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iii. On capital goods imported or locally-purchased by a VAT-registered taxable person.

(d) Unused input taxes resulting from cancellation of VAT registration due to retirement from or cessation of business, or due to changes in or cessation of status as a VAT taxable taxpayer under Section 106(C) of the Tax Code.

(e) Excise taxes paid on:

i. Petroleum products sold to tax-exempt entities and international carriers;
ii. Goods locally produced or manufactured and actually exported without returning to the Philippines;

(f) Taxes erroneously or illegally paid or penalties imposed without authority.

Any taxpayer who is erroneously registered as a VAT person will not be covered by paragraphs (c) and (d) of this Section.

In no case shall a tax refund or tax credit certificate be given resulting from availment of incentives granted pursuant to special laws for which no actual tax payment was made.

SECTION 3. Uses of Tax Credit Certificate . — Whenever a Tax Credit Certificate (TCC) is issued to a taxpayer to acknowledge the existence of a valid tax credit, such Tax Credit Certificate may be used by the grantee or his assignee in the payment of his direct internal revenue tax liability, such as income tax; documentary stamp tax, excise tax, value added tax, percentage tax and other internal revenue taxes. However, in no case shall the TCC be used in payment of the following:

(a) Payment or remittance for any kind of withholding tax.

(b) Payment arising from the availment of tax amnesty declared under a legislative enactment.

(c) Payment of deposits on withdrawal of exciseable articles.

(d) Payment of taxes not administered or collected by the Bureau of Internal Revenue.

(e) Payment of compromise penalty.

SECTION 4. Assignment or Transfer. —

a) Transferability of TCC. — Taxpayers with TCCs issued by the BIR in their name hold the same in the concept of an owner. Consequently, BIR-issued TCCs may be transferred in favor of an assignee subject only to the following conditions:

(i) The transfer must be with prior approval of the Commissioner or his duly authorized representative who shall verify whether or not the TCC sought to be transferred is still valid in the hands of the original holder;
(ii) The transfer should be limited to one transfer only.
(iii) The transferee shall use the TCC assigned to him strictly in payment of his direct internal revenue tax liability and in no case shall the same be available for conversion to cash in his hands.

b) Assignment Procedures. — The transfer or assignment of a TCC from the original holder to his or its assignee shall be subject to the following procedures:

(i) The TCC sought to be assigned or transferred shall be presented before the Commissioner or his duly authorized representative for verification. If found to be valid and still with creditable balance, the TCC shall be marked "Valid for Transfer", countersigned by the said officer.

(ii) Upon execution of the Deed of Assignment, the transferor shall present the same, together with the original copy of the TCC.

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(iii) The original copy of the TCC shall still be cancelled even if only a portion of its face value is transferred or assigned, in which case, new TCC(s) shall be issued representing the respective portions pertaining to the transferee(s) and/or the balance remaining for the account of the transferor.

(iv) Any TCC issued in favor of the transferee or assignee shall by valid for five (5) years, but subject to the following conditions which must be annotated therein, as follows:

1. Not valid for further transfer;
2. Not valid for cash conversion.

SECTION 5. Period of Validity, Conversion and Revalidation. —

a) Validity Period. — Any Tax Credit Certificate (TCC) issued in accordance with the pertinent provision of the Tax Code of 1997 which remains unutilized after five (5) years from date of issue shall, unless revalidated before the end of the fifth year, be considered invalid and shall not be allowed for use in payment of any of the taxpayer's internal revenue tax liability nor allowed to be transferred and the unutilized amount thereof shall revert to the General Fund of the National Government.

The revalidated TCC shall be valid for a period of five years from the date of issue.

b) Conversion Period. — Any request for conversion into cash refund of unutilized tax credits may be allowed during the validity period of the TCC. Provided, however, that the original copy of the Tax Credit Certificate showing a creditable balance is surrendered to the Asst. Commissioner, Collection Service or other duly authorized Revenue Officer for verification and cancellation. Provided, further, that a refund check or treasury warrant issued in accordance with the pertinent provisions of the Tax Code of 1997, which shall remain uncashed or unclaimed within five (5) years from the date of issue, mailing or delivery, whichever comes later, shall be forfeited in favor of the Government and the amount thereof shall revert to the general fund.

c) Revalidation Period . — In general, a TCC may be revalidated prior to the expiration of its validity period. Provided, however, that any TCC issued prior to January 1, 1998 in which the grantee's holding period therefor as of said date is less than five (5) years counted from date of issue, may be submitted for revalidation by the holder within six (6) months prior to the end of the fifth (5th) year. For example, a TCC issued on December 31, 1997 shall be presented for revalidation within the six-month period prior to expiration, i.e., from July 1 to December 31, 2002.

d) Procedure for Revalidation . — The revalidation of any TCC validly issued and subsisting in accordance with the provisions of law and Regulations shall be initiated by the filing of an application therefor with the Collection Service or other duly authorized Office of the Bureau of Internal Revenue.

The revalidation shall be accomplished through the issuance of a new TCC, reflecting its unutilized amount or creditable balance. Provided, however, that no revalidated TCC shall be issued unless the Commissioner's duly authorized representative has certified that the applicant taxpayer has no outstanding tax liability. If the holder has any outstanding tax liability, said liability shall be applied first against the TCC sought to be revalidated through the issuance of a Tax Debit Memo (TDM).

For this purpose, the term "outstanding tax liability" shall refer to an assessment that is already final and executory.

SECTION 6. Repealing Clause . — Revenue Regulations No. 7-98 and any other revenue issuance inconsistent with these Regulations are hereby repealed, amended or modified accordingly.

SECTION 7. Effectivity. — These Regulations shall take effect fifteen (15) days from publication in any newspaper of general circulation.

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Adopted: 19 July 2000

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