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

BIR REGULATIONS NO. 14-94, September 02, 1994

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Pursuant to the provisions of Section 245 of the National Internal Revenue Code (NIRC), 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 Articles 23 and 77 of Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, and other special laws, e.g., Republic Act No. 7227, otherwise known as the Bases Conversion and Development Act of 1992.

SEC. 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."

SEC. 3. Definition of "Lending Investors" - Section 2, paragraph (t) of Revenue Regulations No. 10-94 is hereby amended 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."

SEC. 4. On sale of goods or properties - Section 5 of Revenue Regulations No. 10-94 is hereby amended to read as follows:

> "SEC. 5. xxx xxx xxx
> xxx xxx xxx
>
> "In case of sales of such real properties on the installment plan" as defined under Section 2 (cc) of these Regulations, the seller shall be subject to VAT on the installment payments, including interests and penalties,

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actually received on or after October 1, 1994.

"However, in the case of sales of such real properties "on the deferred-payment basis, not on the installment plan" as defined under Section 2 (ee) of these Regulations, the subsequent payments of the balance of the entire purchase price on or after October 1, 1994 shall no longer be subject to VAT since in a sale on a deferred-payment basis not on the installment plan, the obligations of the purchaser received by the vendor are to be considered as the equivalent of cash."

xxx xxx xxx
xxx xxx xxx

"The entire purchase price of a sale of real property on the deferred-payment basis not on the installment plan executed on or after October 1, 1994 shall be subject to VAT.

xxx xxx xxx

SEC. 5. On franchise grantees - The provision of the second paragraph in Section 8 (f) of Revenue Regulations No. 10-94 is hereby restored to read as follows:

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

Franchise grantees of telephone and telegraph shall be subject to VAT on their gross receipts derived from their telephone, telegraph, telewriter exchange, wireless and other communication equipment services as well as from their overseas dispatch, message, or conversation originating from the Philippines. The percentage tax imposed under Section 118 of the Code shall no longer be collected from the person availing of their services.

"(g) x x x

"(h) x x x"

SEC. 6. On Sale of Services and Use or Lease of Properties - Section 8 of Revenue Regulations No. 10-94 is hereby amended by adding paragraph (1) (i) thereto to read as follows:

"SEC. 8. x x x

"(i) Gross receipts derived from printing and publication of any newspaper, magazine, review or bulletin, except those derived from circulation shall be subject to VAT. For purposes of this paragraph, the term "circulation" means the outright sale of said publication or subscription to such newspaper, magazine, review or bulletin which appear at regular intervals and not devoted principally to advertisements."

SEC. 7. On zero-rated sale of goods - Section 11, paragraph (b), Nos. (1) and (3) and paragraph (c), Nos. (4) and (5), and paragraph (d) of Revenue Regulations No. 10-94 are hereby amended to read as follows:

"(b) Zero-rated sale of goods - The following sales by a VAT-registered person shall be zero rated:

"(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."

"(2) xxx xxx xxx

"(3) Sales to persons or entities whose exemption under special laws, e.g., R.A. No. 7227, [duly registered and accredited enterprises with Subic Bay Metropolitan Authority (SBMA) and Clark Development Authority (CDA)], or international agreements, e.g., Asian Development Bank (ADB), International Rice Research Institute (IRRI), etc., to which the Philippines is a signatory effectively subject such sales to zero-rate.

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"(4) x x x

"c. Transactions subject to zero-rate. x x x

"(1) x x x

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

"(5) Services performed by sub-contractors and/ or contractors duly accredited by either the Board of Investments or the Export Development Council in processing, converting, or manufacturing goods for an enterprise whose export sales exceed seventy percent (70%) of the total annual production.

"(d) Effectively zero-rated sale of goods, properties or services - Effectively zero-rated sale of goods, properties or services shall refer to the local sale by a VAT-registered person to a person or entity who was granted indirect tax exemption under special laws, e.g., RA 7227 or international agreements, e.g., ADB, IRRI. Under these Regulations effectively zero-rated transactions shall be limited to the local sale of goods or properties to persons or entities who enjoy exemptions from indirect taxes under subparagraph (b), No. (3), or of services under subparagraph (c), Nos. (3), (4) and (5) of this Section.

SEC. 8. On exempt transactions of real properties - Section 12, paragraph (B), (m), (s) and (t) of the Revenue Regulations No. 10-94 are hereby amended to read as follows:

"(B) x x x

"(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 shaft 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."

"(s) Sale of real properties not primarily held for sale to customers or held for tease in the ordinary course of trade or business or real property utilized for low-cost housing under B.P. 220 or P.D. 957, and other related laws and socialized housing as defined by R.A. No. 7279, otherwise known as the "Urban Development and Housing Act of 1992 wherein the price ceiling per unit is P375,000.00 for low-cost housing; and P150,000.00 for socialized housing or as may from time to time be determined by the Housing and Land Use Regulatory Board (HLURB)."

"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, 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, parts or units thereof used for home industries, retail stores or ether 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

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seller/transferor on or after October 1, 1994;

"(B) In respect only of the improvement, if the property consists of (I) land acquired before October 1, 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 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."

"(t) Sale or lease of goods or properties x x x

xxx xxx xxx

"Cooperatives, except electric cooperatives, duly registered under RA No. 6938, otherwise known as the "Cooperative Code of the Philippines," transacting business with members only or with both members and non-members are subject to VAT.

xxx xxx xxx

SEC. 9. On exempt transactions - Section 12 of Revenue Regulations No. 10-94 is hereby amended by adding thereto paragraph (u) to read as follows:

"(u) Foreign and local donations to, as well as sales by religious institutions of religious articles, particularly bibles, crucifix, vestments or similar articles, to be used actually, directly and exclusively for religious purposes and not done in the ordinary course of trade or business."

SEC. 10. On Presumptive Input Tax on Beginning Inventories - Section 20 of Revenue Regulations No. 10-94 is hereby amended to read as follows:

"Taxpayers who became VAT-registered persons upon effectivity of R.A. No. 7716 or who have exceeded the minimum turnover of P500.000.00 or who voluntarily register even if their turnover does not exceed P500,000.00 shall be entitled to a presumptive input tax on the inventory on hand as of September 30, 1994 on the following: x x x x

SEC. 11. 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 taxpayer;

"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

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not exceed P500,000.00 for any 12-month period."

SEC. 12. On Invoicing Requirements - Section 29(a) of Revenue Regulations No. 10-94, is hereby amended, and paragraph (b) is added thereto to read as follows:

"SEC. 29. (a) Invoicing Requirements - In general, 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 x x x

(1) xxx xxx xxx
(2) xxx xxx xxx
x x x

"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."

(b) Where the sale or transfer is made by a VAT taxpayer to another VAT-registered taxpayer, the receipts or sales invoices must show the registered name, TIN and address of the purchaser.

SEC. 13. On Withholding of Creditable VAT - Section 31 of Revenue Regulations No. 10-94 is hereby amended to read as follows:

"The government or any of its political subdivisions, instrumentalities or agencies, including government-owned or controlled corporation (GOCCs) shall, before making payment on account of its purchase of goods from sellers and/or services rendered by contractors which are subject to VAT imposed in Sections 100 and 102 of the Code, deduct and withhold the VAT due at the rate of three percent (3%) of the gross payment for the purchase of goods and six percent (6%) on gross receipts for services rendered by contractors on every sale or installment payment which shall be creditable against the VAT liability of the seller or contractors;

Provided that payment of P1,000 and below per purchase shall not be subject to withholding tax; Provided further, That the VAT payment for lease or use of properties or property rights to non-resident owners shall be subject to withholding tax at the time of payment. For this purpose, the payor or person in control of the payment shall be considered as the withholding agent.

SEC. 14. 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 applicable percentage tax imposed under the NIRC.

SEC. 15. On Short Period Return - Section 33, paragraph (C) of Revenue Regulations No.10-94 is hereby amended to read as follows:

"(C) Short Period Return - Any person who retires from business or whose registration has been cancelled shall file a final quarterly return and pay the tax due thereon within twenty (20) days after the end of the quarter when the business ceased operation and the registration officially cancelled. Thus, if a taxpayer's Certificate of Registration is cancelled on November 30, 1994, he shall file his final quarterly VAT return and pay the tax on or before January 20, 1995.

SEC. 16. On Transitory, Effectivity and Penalty Provisions - Section 34, paragraphs (a), (b), (c), (d) and (e) of Revenue Regulations No. 10-94 are hereby amended, and paragraph (f) is added thereto, to read as follows:

"(a) Short quarter return - Any person filing percentage tax returns on a fiscal quarterly basis who will be subject to VAT on the effectivity of R.A. No. 7716 shall file on or before October 20, 1994, a short quarter

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percentage tax return for the period ending September 30, 1994, after which the initial VAT return and the succeeding returns shall be filed in accordance with these Regulations.

"Similarly, persons who have ceased to become liable for VAT upon the effectivity of R.A. 7716, (e.g., copra, cotton, those whose gross receipts do not exceed P500,00.00) shall file a short quarter return covering the period ending September 30, 1994. This short quarter return shall be filed on or before October 25, 1994.

"(b) Presumptive input tax credits.

"(i) For goods, materials or supplies not for sale but purchased for use in business in their present condition, which are not intended for further processing and are on hand as of September 30, 1994, a presumptive input tax equivalent to 8% of the value of the goods or properties shall be allowed.

"(ii) For goods or properties puchased with the object of resale in their present condition, the same presumptive input tax equivalent to 8% of the value of goods unused as of September 30, 1994 shall be allowed, which amount may also be credited against the output tax of a VAT-registered person.

"(iii) For real estate dealers, the presumptive input tax of 8% of the book value of improvements constructed on or after January 1, 1988 (the effectivity of E.O. 273) shall be allowed.

For purposes of subparagraphs (i), (ii) and (iii) above, an inventory as of September 30, 1994 of such goods or properties and improvements showing the quantity, description, and amount should be filed with the RDO not later than October 31, 1994.

(c) Unused invoices or receipts - VAT-registered taxpayers should submit an inventory of unused invoices or receipts as of September 30,1994 indicating the number of booklets and the corresponding serial numbers on or before October 31, 1994. The use of such invoices or receipts will be allowed for use in transactions subject to VAT on the condition that the VAT-registered person shall be required to stamp on all copies of the unused invoices or receipts with the words "VAT-registered as of_____, 1994". The District in which the principal place of business is located should also be indicated in the stamp. These unused invoices or receipts with the proper stamp shall be allowed for use in transactions subject to VAT up to December 31, 1994 only.

Those who have already filed an inventory of unused receipts or invoices as of May 28, 1994 are required to file an amended inventory as of September 30, 1994.

(d) Registration and Payment of VAT - During the declared transitory period between May 28, 1994 up to September.30, 1994, the following guidelines shall be followed:

Group I - Those VAT-Taxpayers under E.O. No. 273 (Old Law) need only to re-register up to September 30, 1994; and pay the registration fee of P250.00 for every separate or distinct establishment for the last quarter of the taxable year 1994.

Group II - Those Taxpayers becoming liable to VAT under R.A. 7716 are required to register as VAT taxpayer until September 30,1994; pay registration fees of P250.00 for every separate or distinct establishment or place of business; submit inventory list of unused Non-VAT invoices/receipts; and indicate the word VAT on all copies of unused Non-Vat invoice/receipts. The taxpayer shall become liable for the output VAT on October 1, 1994 and shall be entitled to input VAT credit on purchases from VAT-Registered suppliers of goods, properties or services. The initial monthly VAT declaration and payment thereof for those liable for the output tax for the month starting October 1, 1994 shall be due not later than November 25, 1994.

Group III - Those VAT taxpayers who cease to be VAT liable under R.A. 7716 shall apply for cancellation of their VAT registration arid submit inventory list of unused VAT invoices/receipts for stamping as Non-VAT. They shall, however, when applicable, register as non-VAT-taxpayers and pay the registration fee of P250.00 for every separate or distinct establishment or place of business.

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Group IV - Non-VAT Taxpayers engaged in business are required to register until September 30, 1994, as non-VAT-taxpayers under Section 237 of the Code and shall pay the registration fee of P250.00 for every separate or distinct establishment or place of business.

(e) Penalties - those who fail to register until September 30, 1994 shall be liable to VAT starting October 1, 1994 but they cannot pass on said output VAT to their customers. Likewise, they cannot claim input VAT credit for purchases of goods, properties and services from VAT-registered suppliers. On the other hand, buyers cannot claim input tax credit for purchases of goods from VAT Registrable sellers who failed to register during the period of registration.

(f) Tax credit on overpayment of registration fee of P1,000.00 - Those who have overpaid their registration fee shall be allowed an automatic tax credit against their succeeding years registration fee upon presentation of proof of payment.

SEC. 17. On Repealing Clause - Section 36 of Revenue Regulations No. 10-94 is hereby amended to read as follows:

"SEC. 36. Repealing Clause. - x x x

xxx xxx xxx

"Enterprises registered with BOI under E.O. 226 before October 1, 1994 shall continue to enjoy the above benefits and incentives. However, enterprises registered under E.O. 226 after October 1, 1994, shall now be subject to VAT on imported capital equipment and VAT on services rendered and shall not be entitled to tax credit on domestic capital equipment insofar as VAT is concerned."

SEC. 18. These Regulations shall supersede and replace Revenue Regulations No. 11-94.

SEC. 19. Effectivity - These Regulations shall take effect fifteen (15) days after publication in a newspaper of general circulation in the Philippines.

Adopted: 02 Sept. 1994

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

Recommending Approval:

(SGD.) LIWAYWAY VINZONS-CHATO
Commissioner of Internal Revenue

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