

Republika ng Pilipinas
PAMBANSANG PANGASIWAAN NG PATUBIG
(National Irrigation Administration)
Lungsod ng Quezon

. Read
. File

MC # 42, s. 1993

MEMORANDUM CIRCULAR

T O : THE DEPUTY ADMINISTRATOR, ASSISTANT ADMINISTRATORS,
DEPARTMENT HEADS, REGIONAL IRRIGATION MANAGERS,
OPERATIONS/PROJECT MANAGERS, IRRIGATION
SUPERINTENDENTS, PROVINCIAL IRRIGATION ENGINEERS,
PROJECT ENGINEERS AND ALL OTHERS CONCERNED
National Irrigation Administration

SUBJECT : REVENUE REGULATIONS NO. 10-93

Quoted hereunder in full is REVENUE REGULATIONS NO. 10-93
for your implementation.

"REPUBLIKA NG PILIPINAS
Kagawaran Ng Pananalapi
KAWANIHAN NG RENTAS INTERNAS

SUBJECT : Republic Act No. 7649, further amending Section
110 of the National Internal Revenue Code, as
amended, requiring the withholding of creditable
value-added tax.

T O : All Internal Revenue Officers, Government
Offices as Withholding Agents and Others
Concerned.

Section 1. Scope. - Pursuant to the provisions of
Section 245 of the National Internal Revenue Code (NIRC),
as amended, in relation to Section 2 of Republic Act 7649,
these regulations are hereby promulgated to govern the manner
of withholding and remittance of taxes on account of payments
made by the government for purchases of goods and services
subject to value-added tax.

Sec. 2. Definitions. - In applying the provisions of
these regulations, the following terms shall have the meaning
indicated below:

- (a) "Government" refers to all departments, bureaus,
offices, agencies and instrumentalities of the
government, local government units (province,
city, municipality, and barangay) and government-
owned or controlled corporations (GOCCs), including
the regional/district offices, branches and unit.

- (b) "Contractor" refers to all sellers of services to the government subject to 10% value-added tax under Section 102 of the NIRC, as amended, regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties.
- (c) "Head of Office" refers to the highest executive officer of "Government" as defined in (a) above. For Example:

| <u>Office</u> | <u>Head of Office</u> |
|--|-----------------------|
| Department of Public Works & Highways (DPWH) | Secretary |
| DPWH Regional Office | Regional Director |
| DPWH District Engineering Office | District Engineer |
| Philippine National Bank (PNB) | President |
| PNB Branch | Branch Manager |
| Provincial Government | Governor |
| Barangay | Barangay Captain |

Sec. 3. General Provisions. - In general, value-added tax due on sales of goods and services are not subject to withholding since the tax is not determinable at the time of sale. However, sale of goods and services to the government subject to VAT shall be subject to withholding pursuant to the provisions of R.A. 7649.

Sec. 4. Withholding Agents Charged With the Duty to Withhold and Remit. - All local government units, represented by the Provincial Treasurer in provinces, the City Treasurer in cities, the Municipal Treasurer in municipalities, and Barangay Treasurer in barangays, Treasurers of GOCCs, and the Chief Accountant or any person holding similar position and performing similar function in national government offices, as withholding agents, shall deduct and withhold the prescribed creditable value-added tax before making any payment to seller of goods and services.

The responsibility and liability of the respective treasurer, chief accountant, and any person holding similar position performing similar function pursuant to and under these regulations may not be delegated to subordinate officials or employees.

In cases where the government as herein defined has regional offices, branches or units, the withholding and remittance of the creditable VAT may be done on a decentralized basis. As such, the treasurer or the chief accountant or any person holding similar position and performing similar function in said regional office, branch or unit shall deduct and withhold the creditable VAT before making any payment to the seller of goods and services.

Sec. 5. Rates and Basis of Creditable Value-Added Tax to be Withheld. - The gross payments made by the government to sellers of goods and services shall be subject to withholding tax at the rates prescribed below:

- (a) Sale of Goods. - Three percent (3%) on gross payments, exclusive of the 10% VAT;
- (b) Sale of Services. - Six percent (6%) on gross payments, exclusive of the 10% VAT.

Illustrative Computations

1) Purchase of Goods

a) VAT Separately Billed

| | |
|---------------|------------------|
| Selling Price | P 100,000 |
| 10% VAT | 10,000 |
| Total | <u>P 110,000</u> |

The 3% Withholding Tax shall be computed as follows:

| | |
|----------------------------|----------------|
| Total payment (net of VAT) | P 100,000 |
| Withholding tax rate | x 3% |
| Amount to be withheld | <u>P 3,000</u> |

- ##### b) VAT Not Separately Billed - assuming the same facts in example (a) above, except that VAT was not separately billed in the invoice.

| | |
|----------------------|------------------|
| Total invoice amount | <u>P 110,000</u> |
|----------------------|------------------|

The 3% Withholding Tax shall be computed as follows:

| | |
|-----------------------|------------------|
| Total payment | <u>P 110,000</u> |
| Payment (net of VAT) | |
| P110,000 x 10/11 | P 100,000 |
| Withholding tax rate | x 3% |
| Amount to be withheld | <u>P 3,000</u> |

2) Purchase of Services

a) VAT Separately Billed

| | |
|----------------------|------------------|
| Total Contract Price | P 500,000 |
| 10% VAT | 50,000 |
| Total Billing | <u>P 550,000</u> |

The 6% Withholding Tax shall be computed as follows:

| | |
|----------------------------|-----------------|
| Total payment (net of VAT) | P 500,000 |
| Withholding tax rate | x 6% |
| Amount to be withheld | <u>P 30,000</u> |

Total Billing

The 6% withholding tax shall be computed as follows:

- b) VAT Not Separately Billed - assuming the same facts in example (a) above, except that VAT was not separately billed.

Total Billing P 550,000

The 6% withholding tax shall be computed as follows:

Total payment P 550,000

Payment (net of VAT)

$P550,000 \times 10/11$

P 500,000

Withholding tax rate

$\times 6\%$

Amount to be withheld

P 30,000

In case of partial payment:

Partial payment

P 300,000

Payment (net of VAT)

$P300,000 \times 10/11$

P 272,727

Withholding tax rate

$\times 6\%$

Amount to be withheld

P 16,364

Sec. 6. Returns and Remittance of tax. The withholding agents shall accomplish the Monthly Return of Value-Added Tax Withheld on Government Payments under RA No. 7649 (BIR Form) and remit the same to any accredited bank in the Revenue District Office where the government office is located. In places where there are no accredited banks, the same shall be remitted to the Revenue District Officer, Collection Agent, or duly authorized treasurer of the city or municipality where the government office is located. The return in triplicate shall be filed and the remittance made within ten (10) days following the end of the month the withholding was made.

Sec. 7. Certificate of Value-Added Tax Withheld. - Every withholding agent shall furnish each seller of goods and services from whom taxes under these regulations had been deducted and withheld, the Certificate of Value-Added Tax Withheld on Government Payments (BIR Form). The certificate shall be accomplished in quadruplicate, the first three copies of which shall be given to the seller/payee not later than the fifteenth day of the following month. The fourth copy shall be the file copy of the withholding agent.

Sec. 8. Nature of Tax Withheld. - The amount of tax herein withheld and paid as evidenced by the Certificate of Value-Added Tax Withheld on Government Payments (BIR Form) shall be creditable against the value-added tax liability of the payee/seller of goods or services provided that the payments received from which the taxes were deducted and withheld are included in the tax return/declaration as part of his declared sales or receipts.

Sec. 9. Responsibility of Head of Office. - The head of office concerned shall submit the names of the incumbents of the positions stated in Section 4 hereof to the Revenue District Officer where the government office is located within thirty (30) days from the effectivity of these regulations, and the names of the replacements for any change of such incumbents shall be submitted within fifteen (15) days from such change or replacements.

Sec. 10. Liability of Designated Officers. -

(a) Additions to the Tax. The designated Treasurers, Chief Accountants and other persons holding similar positions, who have the duty to withhold and remit the value-added tax in their respective offices under these regulations shall be personally liable for the additions to the tax prescribed in Sec. 248 and 249 of the NIRC, in accordance with Sec. 247 of the NIRC.

(b) Punishable Acts or Omissions. - Pursuant to Section 271 of the NIRC, every officer or employee of the government of the Republic of the Philippines or any of its agencies or instrumentalities, its political subdivisions, as well as government-owned or controlled corporations who, being charged with the duty to deduct and withhold any internal revenue tax and to remit the same in accordance with these regulations, is guilty of any of the offenses herein-below specified shall, upon conviction for each act or omission, be fined in a sum of not less than five thousand pesos (P5,000.00) but not more than fifty thousand pesos (P50,000.00), or imprisoned for a term of not less than six months and one day but not more than two years, or both:

1. Fails or causes the failure to deduct and withhold any internal revenue tax covered by these regulations;
2. Fails or causes the failure to remit the taxes deducted and withheld within the time prescribed herein; and
3. Fails or causes the failure to file the return or issue certificate required.

(c) Other Violations. - Pursuant to Sec. 274 of the NIRC, a person who violates any provision of these regulations for which no specific penalty is provided by law, shall upon conviction of each act or omission, be fined in a sum of not more than one thousand pesos, or imprisoned for a term of not more than six months, or both.

Sec. 11. Repealing Clause. - All existing rules and regulations or parts thereof which are inconsistent with the provisions of these regulations are hereby revoked or modified.

Sec. 12. Effectivity. - These regulations shall
take effect on July 1, 1993.

(SGD.) ROMEO L. BERNARDO
Officer-in-Charge
Undersecretary of Finance

Recommending Approval:

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

Compliance is hereby enjoined.

(SGD.) APOLONIO V. BAUTISTA
Administrator

20 August 1993