

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

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

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, 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.

"(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 shall 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 lease 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 other 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 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