

[**BIR REVENUE REGULATIONS NO. 14-2003,
March 26, 2003**]

AMENDING REVENUE REGULATIONS NO. 2-98, AS AMENDED, IN ORDER TO SIMPLIFY THE COLLECTION OF TAX, THROUGH WITHHOLDING AT THE SOURCE, ON SALES OF GOODS OR SERVICES SUBJECT TO THE 3% PERCENTAGE TAX UNDER SECTION 116 OF THE CODE, AND/OR TO THE VALUE-ADDED TAX (VAT) UNDER SECTIONS 106 AND 108 OF THE SAME CODE

SECTION 1. Scope. — Pursuant to the provisions of Section 244 of the National Internal Revenue Code of 1997 (Code), these Regulations are hereby promulgated in order to simplify, streamline and make more efficient the collection of the percentage tax or the VAT on the sale of goods which for this purpose includes properties, or on the payment for the services performed by persons subject to the 3% percentage tax under Section 116 of the Code or by persons subject to VAT under Sections 106 and 108 of the same Code, respectively, through withholding of the tax at the source, pursuant to Sections 128(A)(3) and 245(g), (i), and (j) in relation to Sections 106, 108 and 116 of the said Code, the pertinent portions of which provide:

"SECTION 128. Returns and Payment of Percentage Taxes. —

(A) Returns of Gross Sales, Receipts or Earnings and Payment of Tax —

(1) . . .

(2) . . .

"(3) Exceptions. — The Commissioner may, by rules and regulations, prescribe:

*"(a) **The time for filing the return at intervals other than the time prescribed in the preceding paragraphs for a particular class or classes of taxpayers after considering such factors as volume of sales, financial condition, adequate measures of security, and such other relevant information required to be submitted under the pertinent provisions of this Code; and***

*"(b) **The manner and time of payment of percentage taxes other than as hereinabove prescribed, including a scheme of tax prepayment.***

*"SECTION 245. Specific Provisions to be Contained in Rules and Regulations. — **The rules and regulations of the Bureau of Internal Revenue shall, among other things, contain provisions specifying, prescribing or defining:***

"(a) xxx xxx xxx"

"(g) **The manner in which revenue shall be collected and paid**, the instrument, document or object to which revenue stamps shall be affixed, the mode of cancellation of the same, the manner in which the proper books, records, invoices and other papers shall be kept and entries therein made by the person subject to the tax, as well as the manner in which licenses and stamps shall be gathered up and returned after serving their purposes;

"(h) xxx xxx xxx

"(i) **The manner in which tax returns, information and reports shall be prepared and reported and the tax collected and paid, as well as the conditions under which evidence of payment shall be furnished the taxpayer, and the preparation and publication of tax statistics;**

"(j) **The manner in which internal revenue taxes, such as income tax, including withholding tax, estate and donor's taxes, value-added tax, other percentage taxes, excise tax and documentary stamp taxes shall be paid through the collection officers of the Bureau of Internal Revenue or through duly authorized agent banks which are hereby deputized to receive payments of such taxes and returns, papers and statements that may be filed by taxpayers in connection with the payment of the tax:**
xxx xxx

"xxx xxx xxx."

SECTION 2. Withholding of Percentage Tax. — An additional section is hereby appended to Revenue Regulations No. 2-98, as last amended by Revenue Regulations No. 14-2002, for the withholding of the 3% percentage tax by certain persons, natural or juridical, on their purchases of goods and/or payments for the services acquired in the course of trade or business and performed by persons subject to the 3% percentage tax under Section 116 of the Code, to read as follows:

"SEC. 5.128. Withholding Of Percentage Tax On Purchases of Goods and/or Payments for Services Acquired in the Course of Trade or Business and Rendered By Persons Subject to the 3% Percentage Tax Pursuant to Section 116 of the Code. —

"(A) *Persons Required To Withhold The Percentage Tax.* — In general, any person, natural or juridical, with respect to his/its purchase of goods or payments for purchase of services not arising from or incident to an employer-employee relationship but made in the course of trade or business (including exercise of profession or calling), from Non-VAT registered persons subject to the 3% percentage tax under Section 116 of the Code [i.e., those whose gross annual sales, for sale of goods, or gross annual receipts, for sale of services, do not exceed five hundred

fifty thousand pesos (P550,000.00), and who do not opt to be registered as VAT taxpayers and, therefore, chose to be registered as non-VAT persons pursuant to Section 236(I) of the Code], shall be subject to a percentage tax withholding at source at the rate of three percent (3%), based on the payee's gross sales/receipts, pursuant to Section 116, in relation to Sections 128 and 245(g), (i) and (j) of the Code if the taxpayer-payee opts to remit his percentage tax through the withholding and remittance of the same by the withholding agent-payor which option is manifested by filing the "Notice of Availment of the Option to Pay the Tax through the Withholding Process" (Annex E), copy-furnished the withholding agent-payor and the Revenue District Offices of both the payor and payee.

The percentage tax withheld shall be remitted by the withholding agent using BIR Form No. 1600 (Monthly Remittance Return of Value-added Tax and Other Percentage Taxes Withheld) to the appropriate collection agents [Accredited Agent Bank (AAB) or Revenue Collection Officer (RCO), whichever is applicable] of the Bureau of Internal Revenue (BIR). Such return serves as the withholding tax return of the payor-withholding agent and, likewise, serves as the substituted percentage tax return of the payee if the said income recipient-payee has only one payor from whom he generates his income and provided, further, that a "Notice of Availment of the Substituted Filing of Percentage Tax Return" (Annex "A")* is filed with the Revenue District Office (RDO) where the income-recipient is registered or required to register (Home RDO). Such Notice of Availment shall state that the income recipient is a non-VAT taxpayer, having not opted to be covered by the VAT system, with actual annual gross sales (for sale of goods) or gross receipts (for sale of service), or expected annual gross sales/receipts (for new taxpayer) of not more than P550,000 from just one payor and that he is opting to file under the substituted filing of percentage tax return. A copy of the said Notice shall be furnished the lone payor of the income. Moreover, BIR Form No. 2306 (Certificate of Final Tax Withheld at Source-March 2003 version), duly signed by both the payor and the payee, shall be attached to the duly filed BIR Form No. 1600 and shall constitute as the authority given by the payee to the payor to file and consider the payor's duly filed BIR Form 1600 as the substituted percentage tax return of the payee. The duly filed or stamped "Received" BIR Form 2306 shall serve the same purpose as the percentage tax return (BIR Form 2551M) of the payee. Accordingly, a taxpayer availing of the Substituted Filing of Percentage Tax Return shall update his registration data with his Home RDO.

On the other hand, if the payee has more than one payor, the percentage tax withheld and remitted by the payor under BIR Form No. 1600 shall be treated as creditable tax by the payee when he files the monthly percentage tax return under BIR Form No. 2551M. The claimed tax credit shall be evidenced by BIR Form No. 2307 (Certificate of Creditable Tax Withheld at Source-March 2003 version) duly executed and signed by both the payor and the payee attesting to the correctness of the figures reflected therein. Since the percentage tax has already been withheld at source based on gross amount and remitted by the payors under BIR Form No. 1600, the Percentage Tax Return (BIR Form No. 2551M) to be

filed by the payee which will not be reflecting any amount payable, shall just serve as a return consolidating all the transactions with all the payors which have already been subjected to withholding tax and which return (BIR Form No. 2551M) shall be filed directly with the appropriate BIR office without the need of passing through an Accredited Agent Bank (AAB) or Revenue Collection Officer (RCO). Nonetheless, in case the total amount of tax withheld by the payors who are engaged in business is incorrect or the payee has transactions with payors who are not engaged in business and therefore not obliged to withhold, the percentage tax return (BIR Form No. 2551M) of the payee which will be reflecting an amount payable shall be filed with the AAB or the RCO, in the absence of an AAB, of the Revenue District Office that has jurisdiction over the taxpayer-payee.

Provided, further that, if at any time of the year, the accumulated gross sales or gross receipts exceed P550,000, the income recipient-payee shall change its/his registration with the BIR from Non-VAT to VAT within one month from the close of the month when the threshold amount was reached. Such payee shall become VAT-registered taxpayer starting the first day of the month following the month of his VAT registration. Accordingly, notification to the payors of income shall be made with respect to such change in "taxpayer classification" of the payee. Change in the tax type and rate of withholding shall correspondingly be made by the income payor.

"(B) Returns And Payments Of Taxes Withheld. — Except in cases where the Commissioner otherwise permits, taxes deducted and withheld pursuant to this Section shall be remitted using the Monthly Remittance Return of VAT and Other Percentage Taxes Withheld (BIR Form 1600) in triplicate which return to be filed and the tax to be paid to the Authorized Agent Banks (AABs) under the jurisdiction of the Large Taxpayer's Service including Large Taxpayer's District Offices, in case of large taxpayer, or the AAB under the jurisdiction of the Revenue District Office (RDO) where the withholding agent is located, in case of non-large taxpayer. In places where there is no AAB, the return shall be filed with and the tax paid directly to the Revenue Collection Officer (RCO) or the duly authorized Treasurer of the City or Municipality where the withholding agent is required to register. The required return shall be filed and payments made within ten (10) days following the end of the month the withholding was made or the withholding has accrued. If the withholding agent is enrolled in Electronic Filing and Payment System (EFPS), the filing of returns and payment of withholding taxes shall be in accordance with the rules and regulations governing EFPS.

"(C) Certificate of Percentage Taxes Withheld. — The payor-withholding tax agent shall issue to the payee a *"Certificate of Final Tax Withheld at Source"* (BIR Form No. 2306) for the 3% final percentage tax withheld, to be accomplished in quadruplicate, two copies of which shall be given to the Payee within ten (10) days following the end of the month the withholding was made, one copy of the Certificate shall be the file copy of the withholding agent and the last copy shall be attached to the filed BIR Form No. 1600. The Certificate (BIR Form No. 2306) to be issued by the withholding agent shall be signed by both the withholding agent and the

payee attesting to the correctness and accuracy of the information contained therein and likewise stating that it serves as the authority given by the payee to the payor to file and consider the payor's duly filed BIR Form 1600 as the substituted percentage tax return of the payee for a payee with only one payor. BIR Form No. 2307 (Certificate of Creditable Tax Withheld at Source) is the certificate that should be issued to the payee by the payor if the payee has several other payors as signified by such payee. Such Certificate shall be issued in quadruplicate, two copies to be issued to the payee for attachment to the Percentage Tax Return (BIR Form No. 2551M) to be filed by the payee consolidating all its/his taxable transactions for the month, one copy to be attached by the payor to the filed BIR Form No. 1600 and one copy serves as the file copy of the payor.

"(D) Substituted Percentage Tax Return. — In the case of sale of goods or services by persons subject to 3% percentage tax under Section 116 of the Code, whose gross sales or receipts have already been subjected to the withholding of the 3% percentage tax by the lone payor, the payee shall no longer be required to file the monthly percentage tax return (BIR Form No. 2551M) with respect to such receipts. The BIR Form No. 1600 duly filed by the payor serves as the substituted return of the payee with lone payor provided that the BIR Form No. 2306 duly executed and signed by both the payor and the payee is attached to the filed BIR Form No. 1600.

"(E) Regular Percentage Tax Return. — Payees with several payors are still required to file the regular percentage tax return reflecting therein the consolidated total of all the taxable transactions for the taxable period and applying as tax credit the taxes withheld by several payors evidenced by the duly issued BIR Form No. 2307 which must be attached to the Percentage Tax Return (BIR Form No. 2551M). If all the transactions reflected/consolidated in the Percentage Tax Return (BIR Form No. 2551M) are with several payors who are engaged in business and therefore have been subjected to the 3% withholding tax, the Percentage Tax Return will no longer reflect any tax payable but will just be a simple consolidation of all the taxable transactions for a given taxable period which may be filed directly with the appropriate BIR office and thus need not pass through any AAB or collecting RCO. Nonetheless, in case the total amount of tax withheld by the payors who are engaged in business is incorrect or the payee has transactions with payors who are not engaged in business and therefore not obliged to withhold the tax, the percentage tax return (BIR Form No. 2551M) of the payee which will be reflecting an amount payable shall be filed with the AAB or the RCO, in the absence of an AAB, of the Revenue District Office that has jurisdiction over the taxpayer-payee.

"(F) Substituted Official Receipt. — For sellers of services whose gross receipts have been subjected to the withholding of the 3% percentage tax, they shall be exempted from the obligation of issuing duly registered non-VAT receipts covering their receipt of payments for services sold. In lieu thereof, the issued "Certificate of Final Tax Withheld at Source" (BIR Form No. 2306), for payee with just one payor, or "Certificate of Creditable Tax Withheld at Source" (BIR Form No. 2307), for payee with