

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

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

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
 - 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.