

[BIR REVENUE MEMORANDUM CIRCULAR NO. 1-90, January 03, 1990]

EFFECTIVITY OF BIR RULING SUBJECTING HOUSEHOLD INSECTICIDES TO VAT

Under BIR Ruling No. 022-88 dated February 2, 1988, this Bureau had ruled that the importation of insecticide called Trebon 10 EC is exempt from value-added tax, because the same is one kind of pesticide that acts as contact and stomach poison to various insect pests of rice . VAT Ruling No. 16-88 dated February 5, 1988 placed household insecticide in the category of articles exempt from VAT. Both rulings provide the basis for not imposing the VAT on insecticides whether household or agricultural.

On July 13, 1989 , BIR Ruling No. 149-89 was issued stating:

"x x x this Office, after a study, has finally concluded that articles, namely fertilizers, pesticides and herbicides, enumerated in **Section 103(c)** of the **Tax Code**, as amended by Executive Order No. 273, the sale or importation of which is exempt from VAT, are those which are used for agricultural purposes. The mosquito coils referred to by you although used to kill insects are not used for agricultural purposes; hence, they do not fall within the purview of **Sec. 103(c)** of the **Tax Code**, as amended."

Said ruling was followed by BIR Ruling No. 178-89 dated August 18, 1989 reiterating that mosquito coils, not being used for agricultural purposes, are subject to VAT; thus, even raw materials used in the manufacture of mosquito coils are subject to VAT.

Considering that no formal notice had been received by the industry regarding the issuance of BIR Ruling No. 149-89 dated July 13, 1989 and that BIR Ruling No. 178-89 was issued only to a particular mosquito coil manufacturer, questions have been raised on their effectivity.

Pursuant to **Section 246** of the **Tax Code**, as amended, any revocation or reversal of any rulings shall not be given retroactive application if the revocation will be prejudicial to the taxpayer except where the taxpayer deliberately misstated the material facts; where the facts subsequently gathered are materially different from the facts on which the ruling is based; and where the taxpayer acted in bad faith.

Since none of these [conditions] are present in the case of BIR Ruling Nos. 149-89 and 178-89 and considering that both rulings were not promptly communicated to the industry concerned, the effectivity of both rulings shall be September 1, 1989.

This order shall take effect immediately and shall be given the widest publicity by all concerned.