

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

**REVENUE BULLETIN NO. 1-2003
NO-RULING AREAS - 001**

SUBJECT : Prescribing the Procedure and Guidelines for the Proper Handling of Request for Rulings Which are Determined Hereunder as "No-Ruling Areas", and Providing the Initial List of "No-Ruling Areas".

TO : All Internal Revenue Officers and Others Concerned

Section 1. *Background and Scope.* – Section 4 of the Tax Code of 1997 grants the Commissioner of Internal Revenue the exclusive and original jurisdiction to interpret the provisions of the Tax Code of 1997 and other tax laws. On the other hand, the Legal Service, particularly the Law Division and the International Tax Affairs Division, and the Legal Divisions in the Revenue Regions, as well as the VAT Review Committee reconstituted under Revenue Special Order No. 413-2001 dated August 31, 2001, are responsible for preparing the rulings to be signed and issued by the appropriate revenue official. The ruling function is limited to the determination of purely legal issues, as opposed to questions of fact. Likewise, the ruling function need not be exercised where the law, rule or regulation is clear, thereby dispensing with the need for the interpretation thereof. Accordingly, this Revenue Bulletin is issued for the purpose of declaring certain issues or subject matter as "No-Ruling Areas", on which the appropriate office of the Bureau is hereby instructed not to accept any request for rulings covered by this Revenue Bulletin or any amendments thereto.

Section 2. *List of No-Ruling Areas.* – The following shall hereby be construed and identified as "No-Ruling Areas":

- a) Tax treatment of the sale or disposition of Principal Residence under Section 24(D)(2) of the Tax Code of 1997 as implemented by Revenue Regulations 14-2000 and circularized in Revenue Memorandum Circular No. 45-2002;

- b) Request for tax exemption in connection with a transfer of property pursuant to the Community Mortgage Program under Republic Act No. 7279 as implemented by Revenue Regulations No. 17-2001 and circularized in Revenue Memorandum Circular No. 43-2001;
- c) VAT treatment of the sale of goods or services to a PEZA-registered enterprise pursuant to Revenue Memorandum Circular No. 74-99;
- d) VAT treatment of imported articles under Section 109 of the Tax Code of 1997 pursuant to the BIR-BOC Joint Memorandum Circular No. 1-2002 and Revenue Memorandum Circular No. 48-2002;
- e) Request for confirmation of tax privileges of Senior Citizens under Republic Act No. 7432;
- f) Tax treatment of the monetized leave credits of government officials and employees under Executive Order No. 291;
- g) Tax treatment of the monetized value of unutilized vacation leave credits not in excess of 10 days;
- h) Tax treatment of separation benefits under Section 32(B)(6)(b) of the Tax Code of 1997.
- i) Confirmation of tax treatment of a given benefit, regardless of amount, where such benefit is already expressly enumerated as a “*de minimis*” benefit under pertinent regulations particularly Revenue Regulations No. 2-98 and Revenue Regulations No. 3-98, as amended.
- j) Determination of whether there is/ there is no substantial change in the ownership or enterprise (whether as a result of a merger or otherwise) for purposes of applying the Net Operating Loss Carry-over (NOLCO) provision under Section 34 (D)(3) of the Tax Code of 1997 as defined under Revenue Regulations 14-2001;
- k) Determination of whether an expense is ordinary or necessary;
- l) Confirmation of whether a corporation is a publicly held corporation for purposes of the Improperly Accumulated Earnings Tax under Section 29 of the Tax Code of 1997 as defined under Revenue Regulations No. 2-2001;

- m) VAT treatment of export sales under Section 106 (A)(2)(a)(1) to (5) of the Tax Code of 1997 including transactions covered by Revenue Memorandum Order No. 9-2000 dated February 2, 2000;
- n) VAT treatment of the sale or exchange of services covered by Section 108 (B) except those under Section 108(B)(3) and (B)(4) of the Tax Code of 1997;
- o) Claim for tax refund or issuance of tax credit certificate as covered by Revenue Delegation Authority Order No. 3-2002;
- p) Request for cancellation or abatement of a tax liability which should be filed with the Technical Working Committee under Revenue Regulations No. 13-2001;
- q) Request for compromise settlement of any tax liability which should be filed with the National Evaluation Board or the Regional Evaluation Board as the case may be as provided under Revenue Regulations No. 7-2001;
- r) Issue/s or transactions involving directly or indirectly the same taxpayer/s which is/are the subject of an investigation, on-going audit, administrative protest, claim for refund or issuance of tax credit certificate, collection proceedings, or a judicial appeal subject to Section 3 hereunder. Accordingly, the taxpayer must submit and include the following statement in the request for ruling: "The issue/s or transaction subject of the request is not under investigation, on-going audit, administrative protest, claim for refund or issuance of a tax credit certificate, collection proceedings, or a judicial appeal of the taxpayer/s involved.";
- s) Industry issues. These are issues as may be determined by the Management Committee from time to time as such, which may not or may be subject of a protest raised by a related or unrelated taxpayer;
- t) Request for rulings on issue/s or transactions based on hypothetical situations;
- u) Request for rulings that are not accompanied by complete documents or information as provided in Revenue Memorandum Circular Nos. 39-2001 and 14-2001, Revenue Memorandum Order Nos. 32-2001, and 1-2000 in relation to BIR Form 0901 or where the relevant regulations or issuance specify.

Section 3. Issue/s or Transactions Subject of a Pending Investigation, On-Going Audit, Claim for Refund or Issuance of a Tax Credit. - Notwithstanding Section 2 paragraph (r) of this Revenue Bulletin, the appropriate Office may act on a ruling with respect to issue/s or transactions subject of a pending investigation, on-going audit, claim for refund or issuance of a tax credit certificate based on the report of the processing office concerned, provided that the facts are not disputed which shall first be verified by the Office where the request was filed. In the absence of a report, the Office acting on the request shall require the processing office to submit a report to them. Prior to the issuance of the ruling, the taxpayer must submit a certification that a decision on the claim for tax refund or issuance of a tax credit has not been made or Final Assessment Notice has not been issued and shall in all stages inform the Office where the request for ruling is pending if and when a decision on the said claim for refund, issuance of tax credit or Final Assessment Notice has been subsequently issued. The taxpayer shall forthwith submit to the ruling office a copy thereof. In which case, the ruling Office shall not issue a ruling but shall forward all documents to the proper Office having jurisdiction over the case for consolidation of the docket.

Section 4. Posting and Updates. - The abovementioned list shall be posted by the appropriate Office concerned in a conspicuous place for viewing and could also be found in the following official website (www.bir.gov.ph). Likewise, official copies and any amendments herein shall be filed with the University of the Philippines Law Center. This list shall be expanded and updated from time to time by subsequent Revenue Bulletins issued for that purpose.

Section 5. Repealing Clause. - All issuances found inconsistent from the foregoing is deemed superseded.

Section 6. Transitory Provision. - Offices which have pending request for rulings considered as "No-Ruling Areas" shall either advise the taxpayer in writing that they are covered by this Revenue Bulletin or shall endorse the request to the Office or Committee concerned as provided in Section 2 subparagraph o, p and q hereof.

Section 7. Effectivity. - This Revenue Bulletin shall take effect immediately.

Please be guided accordingly.

(Original Signed)
GUILLERMO L. PARAYNO, JR.
Commissioner of Internal Revenue