

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

**REVENUE MEMORANDUM CIRCULAR NO. 31-2011**

SUBJECT : Revocation of BIR Ruling [DA-(VAT-057) 552-08] dated December 18, 2008 pursuant to BIR Ruling 099-2011 dated April 6, 2011

TO : All Internal Revenue Officers and Others Concerned

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This refers to the revocation of a previous ruling which declared that sale of services by hotels to persons engaged in international air transport operations, shall be subject to the value-added tax (VAT) at zero percent (0%) rate.

Whereas, in BIR Ruling [DA-(VAT-057) 552-08] dated December 18, 2008, "it was held that the hotel services of Robinsons Land Corporation (RLC), a VAT-registered entity, are services performed in the Philippines and that the international airlines, i.e., Etihad, is engaged exclusively in international air transport operations, such hotel services rendered by RLC in their favor, therefore, are subject to VAT at zero percent (0%) rate."

Whereas, in BIR Ruling 099-2011 dated April 16, 2011, "the services provided by the Hotel to its clients engaged in international air transport operations pertain to room accommodations and food and beverage services. As they are rendered within the Hotel's premises, they have no direct connection with the transport of goods or passengers, and as such, they cannot be considered as services directly attributable to the transport of goods and passengers from a Philippine port directly to a foreign port entitled to zero-rating. Such being the case, the sale of the foregoing services by the Hotel is not zero rated, but is appropriately subject to the 12% VAT."

Section 108 (B)(4) of the Tax Code of 1997, as amended, provides;

*"SEC. 108. Value-Added Tax on Sale of Services and Use or Lease of Properties.*

xxx                      xxx                      xxx

*(B) Transactions Subject to Zero Percent (0%) Rate — The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate.*

xxx                      xxx                      xxx

*(4) Services rendered to persons engaged in international shipping or international air transport operations, including leases of property for use thereof;"*

The above provision must be read in connection with Section 4.108-5 (b) (4) of Revenue Regulations (RR) No. 16-2005, as amended by RR 4-2007, to wit:

*"Sec. 4.108-5. Zero-Rated Sale of Services. —*

xxx                      xxx                      xxx

*(b) Transactions Subject to Zero Percent (0%) Rate — The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:*

xxx                      xxx                      xxx

*(4) Services rendered to persons engaged in international shipping or air transport operations, including leases of property for use thereof; Provided, however, that the services referred to herein shall not pertain to those made to common carriers by air and sea relative to their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines, the same being subject to twelve percent (12%) VAT under Sec. 108 of the Tax Code starting Feb. 1, 2006;"*

The rule on zero-rating of a sale of service to international air carriers is further clarified in Revenue Memorandum Circular No. 046-08 dated February 1, 2008, Q & A 11 states thus:

*"REVENUE MEMORANDUM CIRCULAR NO. 046-08*

*SUBJECT : Clarification of Issues Concerning Common Carrier by Air and Their Agents Relative to the Revenue and Receipt from Transport of Passengers, Goods/Cargoes and Mail, and from Excess Baggage*

xxx                      xxx                      xxx

*Q-11: Are sales of goods, supplies, equipment, fuel and **services** to persons engaged in international air transport operation subject to VAT?*

*A-11: The sale of goods, supplies, equipment, fuel and **services** (including leases of property) to the common carrier to be used in its international air transport operations is **zero-rated**. Provided, that the **same is limited to** goods, supplies, equipment, fuel and services pertaining to or attributable to the **transport of goods and passengers from a port in the Philippines directly to a foreign port without docking or stopping at any other port in the Philippines to unload passengers and/or cargoes loaded in and from another domestic port**; Provided, further, that if any portion of such fuel, equipment, goods or supplies and services is used for purposes other than that mentioned in this paragraph, such portion of fuel, equipment, goods, supplies and services shall be subject to 12% VAT." (emphasis supplied)*

Based on the foregoing, in order to qualify for zero-rating, the services rendered by a VAT-registered person to a person engaged in international air transport operations must pertain to or must be attributable to the transport of goods and passengers from a port in the

Philippines directly to a foreign port without docking or stopping at any port in the Philippines.

Accordingly, applying Section 108 (B) (4) of the 1997 Tax Code, as amended, in connection with Section 4.108-5 (b) (4) of Revenue Regulations (RR) No. 16-2005, as amended by RR 4-2007, the services provided by hotels to their clients engaged in international air transport operations pertaining to room accommodations and food and beverage services should be subject to the 12% VAT.

In view of the foregoing, this Office hereby revokes BIR Ruling [DA-(VAT-057) 552-08] dated December 18, 2008.

All other existing rulings inconsistent herewith are likewise considered **REVOKED**.

All concerned are hereby enjoined to be guided accordingly and give this circular as wide as publicity as possible.

(Original Signed)  
**KIM S. JACINTO-HENARES**  
Commissioner of Internal Revenue

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