

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

December 21, 2010
(date)

REVENUE MEMORANDUM CIRCULAR NO. 97-2010

SUBJECT : VAT exemption of Services by Agricultural Contract Growers

TO : All Internal Revenue Officers, Employees and Others Concerned

This Circular is hereby issued to clarify the VAT exemption of services by agricultural contract growers under Section 109 (F) of the Tax Code of 1997, as amended.

Pursuant to Section 4.109-1(B)(1)(f) of Revenue Regulations No. 16-05, "Agricultural contract growers" refers to those persons producing for others poultry, livestock or other agricultural and marine food products in their original state. Its services involve growing of poultry, livestock or other agricultural and marine food products into marketable poultry, livestock or other agricultural and marine food products. There are agricultural contract growers which offer toll processing/toll dressing/toll manufacturing as a packaged service to its contract growing. Toll processing/toll dressing/toll manufacturing involves procedures such as weighing, killing, dressing, scalding, cut-ups and packaging. In this case, the contract growing and toll processing/toll dressing/toll manufacturing services by agricultural contract growers are exempt from VAT.

Section 108 of the Tax Code of 1997, as amended, provides the following:

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

"(A) Rate and Base of Tax. — There shall be levied, assessed and collected, a value-added tax equivalent to ten percent (10%) (**now 12%**) of gross receipts derived from the sale or exchange of services, including the use or lease of properties. xxx

The phrase 'sale or exchange of services' means *the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration, including those performed or rendered by . . . persons engaged in milling, processing, manufacturing or repacking goods for others; . . . and similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties. . . .*" (emphasis and italics supplied)

However, the Bureau has issued rulings¹ wherein it previously considered that the toll processing (or dressing) of chicken received from other contract growers, and which the toll processors/toll dressing contractor themselves do not produce or raise, come within the purview of Section 109 (F). In effect, said rulings state that the toll processing/dressing, independent of the activity of contract growing, is VAT exempt.

After careful re-study of said rulings, this Office resolves that the toll processing services confirmed as VAT exempt pertain only services to clients from which growing of animals were contracted. As such, preparing and packaging hogs/chicken ready for delivery after producing or growing them can be said to be within the purview of agricultural contract growing. However, if such an activity is done independently of growing poultry, livestock, or other agricultural and marine food products, the same can be considered as Vatable services not covered by agricultural contract growing.

Accordingly, toll processing/toll dressing/toll manufacturing services performed independently from growing poultry, livestock or other agricultural and marine food products is subject to VAT pursuant to Section 108 of the Tax Code of 1997, as amended.

For the guidance and observance of all concerned.

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

¹ VAT Ruling No. 022-03 dated February 27, 2003 and BIR Ruling No. DA-203-05 dated April 21, 2005