

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

August 23, 2013

REVENUE MEMORANDUM CIRCULAR NO. 57-2013

SUBJECT: Circularization of BIR Ruling No. 123-2013 dated March 25, 2013 on the Recovery of Unutilized Creditable Input Taxes Attributable to VAT Zero-Rated Sales

TO : All Internal Revenue Officers and Others Concerned

For the information and guidance of all internal revenue officials and employees concerned, quoted hereunder is the relevant portion *BIR Ruling No. 123-2013 dated March 25, 2013* concerning the recovery of unutilized creditable input taxes attributable to VAT zero-rated sales:

"In reply, please be informed that Section 110(B), in relation to Section 112(A) of the 1997 Tax Code, as amended, provides for the remedy of a taxpayer to recover the unapplied accumulated input VAT arising from zero-rated transactions, viz:

'110. Tax Credits. -

xxx xxx xxx

"B) Excess Output or Input Tax. - If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters. Any input tax attributable to the purchase of capital goods or to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112. (Underscoring supplied)

xxx xxx xxx

In addition thereto, Section 112(A) of the same Code states:

"(A) Zero-Rated or Effectively Zero-Rated Sales. - Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input

tax has not been applied against output tax: xxx xxx xxx
(Underscoring supplied)

It is noted, based on the above-cited provisions, that unutilized creditable input taxes attributable to zero-rated sales can only be recovered through the application for refund or tax credit. Nowhere in the Tax Code can we find a specific provision expressly providing for another mode of recovering unapplied input taxes, particularly your proposition that unapplied input taxes may be treated outright as deductible expense for income tax purposes. Thus, your proposition, that accumulated and unapplied input value-added tax (VAT) arising from Cekas' purchase of goods and services after the expiration of the two (2) year prescriptive period may be expensed outright, is hereby denied for lack of legal basis."

It is a governing principle in taxation that tax exemptions must be construed in *strictissimi juris* against the taxpayer and liberally in favour of the taxing authority. The basic principle in the construction of laws granting tax exemptions has been very stable. He who claims an exemption from his share of the common burden of taxation must justify his claim by showing that the Legislature intended to exempt him by words too plain to be beyond doubt or mistake (*City of Iloilo, et.al. vs. Smart Communications, Inc.* G.R. No. 167260, dated February 27, 2009). And since a deduction for income tax purposes partakes the nature of a tax exemption, then it must also be strictly construed (*CIR vs. Isabela Cultural Corporation*, G.R. No. 172231 dated February 12, 2007)."

All other issuances inconsistent herewith are hereby repealed or modified accordingly.

All revenue officials and employees are enjoined to give this Circular as wide publicity as possible. Accordingly, all employees engaged in the audit and review of audit cases are hereby enjoined to disallow unutilized creditable input taxes attributable to VAT zero-rated sales that is claimed as a deduction for income tax purposes.

This Circular shall take effect immediately.

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

