

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

October 06, 2003

REVENUE MEMORANDUM CIRCULAR NO. 61-2003

SUBJECT : Issuance of VAT Invoice/Receipt for Non-VAT/Exempt Sale of Goods, Properties or Services.

TO : All Internal Revenue Officers and Others Concerned.

I. BACKGROUND :

As provided under Section 113 of the National Internal Revenue Code of 1997 (Code), “*a VAT-registered person shall, for every sale, issue an invoice or receipt. In addition to the information required under Section 237, the following information shall be indicated in the invoice or receipt:*

“(1) *A statement that the seller is a VAT-registered person, followed by his taxpayer’s identification number (TIN); and*

“(2) *The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax. xxx”*

Corollary thereto, Sec.4.108-1 of Revenue Regulations No. 7-95, as amended, in part, likewise provides that if a VAT-registered person is also engaged in non-VAT (exempt) transactions, the rule is that he is not allowed to issue VAT invoice/receipt on said non-VAT transactions. A “VAT invoice/receipt” shall be issued only for sales of goods, properties or services subject to VAT imposed in Sections 106 and 108 of the Code. Thus, he should use separate invoices receipts for taxable and exempt transactions.

The ultimate paragraph of Section 109 of the same Code cites the consequence of issuing a VAT-invoice/receipt by a VAT-registered person for his exempt transactions, *viz* :

“*The foregoing exemptions to the contrary notwithstanding, any person whose sale of goods or properties or services which are otherwise not subject to VAT, but who issues a VAT invoice or receipt therefor shall, in addition to his liability to other applicable*

percentage tax, if any, be liable to the tax imposed in Section 106 or 108 without the benefit of input tax credit, and such tax shall be recognized as input tax credit to the purchaser under Section 110, all of this Code.”

Whereas, prior to Republic Act No. 8424, otherwise known as the “*Tax Reform Act of 1997*”, purchasers of exempt goods, properties or services were not allowed to claim input tax credits on exempt transactions with issued VAT-invoices/receipts, beginning January 1, 1998, however, with the deletion of the word “*not*” in the phrase “*such tax shall not be recognized as input tax credit to the purchaser xxx xxx*” (underscoring supplied), of the aforecited provision, purchasers thereof are no longer precluded from claiming the corresponding input tax on their purchases of exempt goods, properties or services evidenced by VAT invoices/receipts issued by a VAT-registered seller who is both engaged in the sale of taxable and exempt goods, properties or services.

Due to this apparent change in the treatment of input tax credits in the hands of the purchasers of exempt goods, properties or services and the continued non-declaration , on the part of the VAT-registered seller, of such exempt sales as sales subject to VAT as a consequence of the issuance of VAT invoice/receipt therefor, obviously, the Government is suffering for the difference. Undoubtedly, here is a situation where input tax credits are being claimed on the basis of VAT invoice/receipt issued at one end while no output taxes are being declared for such issued VAT –invoices/receipts at the other end.

II. ADDITIONAL INFORMATION TO BE INDICATED IN THE VAT-INVOICE/RECEIPT:

In order to address the revenue leakage/loss of Government as a result of the above and to strictly compel VAT-registered taxpayers to issue VAT-invoice/receipts only for those transactions subject to VAT under Section 106 and 108 of the Code, aside from the information required to be contained in the invoice/receipt provided in Sections 113 and 237 of the Code and existing regulations, the following phrase should be indicated/stamped thereon, in case of VAT-invoices /receipts already printed, or printed thereon, in case of VAT-invoices/receipts still to be printed as of the effectivity of this Circular:

“Not to be issued for non-VAT/exempt sale of goods, properties or services. If issued, sales shall be subject to 10% VAT.”

Sample Receipt/Invoice :

XYZ Company
TIN xxx-xxx-xxx-VAT

"Not to be issued for non-VAT/exempt sale of goods, properties or services. If issued, sales shall be subjected to VAT."

III. PENALTIES.

- (1) **Issuance of VAT-invoice/receipt for exempt transactions.** - Pursuant to Section 109 of the Code, a VAT-registered person whose sale of goods or properties or services which are otherwise not subject to VAT but who issues a VAT invoice or receipt for such transactions shall have the following consequences :
- (a) Shall be liable to the payment of output tax due on such sale of exempt goods or properties or services computed at 1/11 of the total amount appearing on such issued VAT invoice/receipt;
 - (b) No input tax credits shall be allowed to be claimed against the output tax due on such transactions; and
 - (c) Shall be liable to the applicable percentage tax, if any, imposed under Title V of the Code;
- (2) **Issuance of VAT-invoice/receipt without the phrase required under Section II hereof indicated thereon.** - Non-inclusion of the phrase required under Section II hereof on the VAT-invoice/receipt to be issued by a VAT-registered taxpayer shall be subject to the administrative penal sanctions provided for in the Code and implementing regulations.

All internal revenue officers and others concerned are hereby enjoined to give this Circular as wide a publicity as possible.

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