

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

June 01, 2012

REVENUE REGULATIONS NO. 10-2012

SUBJECT: **Joint Venture or Consortium Formed For The Purpose Of Undertaking Construction Projects and Mandatory Enrollment of Local Contractors in the Electronic Filing and Payment System (EFPS)**

All Internal Revenue Officers, Employees and Others Concerned

Section 1. COVERAGE. Pursuant to the provisions of Sec 244 and 245 of the National Internal Revenue Code of 1997, as amended, these Regulations are hereby promulgated to properly implement exclusion to the definition of what is considered as a corporation pursuant to Sec 22 (B) of the NIRC of 1997, in particular, those concerning joint venture undertakings involving construction projects.

Section 2. BACKGROUND. Pursuant to Section 22(B) of the NIRC of 1997, as amended, the term 'corporation' shall include partnerships, no matter how created or organized, joint-stock companies, joint accounts (*cuentas en participacion*), associations, or insurance companies, but does not include general professional partnerships and a joint venture or consortium formed for the purpose of undertaking construction projects or engaging in petroleum, coal, geothermal and other energy operations pursuant to an operating or consortium agreement under a service contract with the Government.

The tax exemption of joint ventures formed for the purpose of construction projects was pursuant to Presidential Decree (PD) No. 929 (dated 4 May 1976) to assist local contractors in achieving competitiveness with foreign contractors by pooling their resources in undertaking big construction projects.

Section 3. JOINT VENTURES NOT TAXABLE AS CORPORATIONS. A joint venture or consortium formed for the purpose of undertaking construction projects not considered as corporation under Sec 22 of the NIRC of 1997 as amended, should be:

- (1) for the undertaking of a construction project; and
- (2) should involve joining or pooling of resources by licensed local contractors; that is, licensed as general contractor by the Philippine Contractors Accreditation Board (PCAB) of the Department of Trade and Industry (DTI);
- (3) these local contractors are engaged in construction business; and
- (4) the Joint Venture itself must likewise be duly licensed as such by the Philippine Contractors Accreditation Board (PCAB) of the Department of Trade and Industry (DTI)

Joint ventures involving foreign contractors may also be treated as a non-taxable corporation only if the member foreign contractor is covered by a **special license as contractor by the Philippine Contractors Accreditation Board (PCAB) of the Department of Trade and Industry (DTI); and the construction project is certified by the appropriate Tendering Agency (government office) that the project is a foreign financed/ internationally-funded project and that international bidding is allowed under the Bilateral Agreement entered into by and between the Philippine Government and the foreign / international financing institution** pursuant to the implementing rules and regulations of Republic Act No. 4566 otherwise known as Contractor's License Law.

Absent any one the aforesaid requirements, the joint venture or consortium formed for the purpose of undertaking construction projects shall be considered as taxable corporations.

In addition, the tax-exempt joint venture or consortium as herein defined shall not include those who are mere suppliers of goods, services or capital to a construction project.

The member to a Joint Venture not taxable as corporation shall each be responsible in reporting and paying appropriate income taxes on their respective share to the joint ventures profit.

Section 4. MANDATORY ENROLLMENT TO THE BIR'S EFPS. All licensed local contractors are hereby required to enroll themselves to the Bureau of Internal Revenue's Electronic Filing and Payment System (EFPS). The enrollment should be done at the Revenue District Office (RDO) where the local contractors are registered as taxpayers.

Section 5. REPEALING CLAUSE. - All existing rules and regulations and other issuances or parts thereof which are inconsistent with the provisions of these Regulations are hereby modified, amended or revoked accordingly.

Section 6. EFFECTIVITY. - These Regulations shall take effect fifteen (15) days after publication.

(Original Signed)
CESAR V. PURISIMA
Secretary of Finance

Recommending Approval:

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