

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

January 2, 2003

REVENUE REGULATIONS NO. 12-2003

SUBJECT : Amending Certain Provisions of Revenue Regulation No. 18-99 Implementing Section 5 of Republic Act No. 8424, otherwise known as the Tax Reform Act of 1997, and other pertinent provisions of the National Internal Revenue Code of 1997 imposing VAT on services of banks, non-bank financial intermediaries and finance companies, beginning January 1, 2003 pursuant to Section 1 of Republic Act No. 9010.

TO : All Internal Revenue Officers and Others Concerned.

SECTION 1 SCOPE. — Pursuant to the provisions of Section 244 in relation to Section 108, and Section 106 on certain cases, of the National Internal Revenue Code of 1997, these Regulations are hereby promulgated to amend certain provisions of Revenue Regulations No. 18-99 governing the imposition of VAT on banks, non-bank financial intermediaries and finance companies in accordance with Section 5 of Republic Act No. 8424 which imposition was last deferred by Section 1 of Republic Act No. 9010.

SEC. 2. DEFINITION OF TERMS. - Section 2 of Revenue Regulations No. 18-99 is hereby amended to read as follows :

“SECTION 2. Definition of Terms. — For purposes of these Regulations, the terms enumerated hereunder shall have the following meaning:

- 2.1. Financial Institution** — shall refer to banks, non-bank financial intermediaries **including quasi banks** and finance companies. **This does not, however, include insurance companies.**
- 2.2. Banks or Banking Institutions** - shall refer to those entities **as defined in Section 3 of Republic Act No. 8791, as amended, otherwise known as the General Banking Law of 2000.** The term "banks" or "banking institutions" are synonymous and interchangeable and specifically include universal banks, commercial banks, **thrift banks** (savings and mortgage banks, stock savings and loan associations, and **private development banks**), **cooperative banks**, **rural banks**, **Islamic banks** and **other classifications of banks** as may be determined by the **Monetary Board of the Bangko Sentral ng Pilipinas.**

- 2.3 Non-bank Financial Intermediaries** – shall refer to persons or entities whose principal functions include the lending, investing or placement of funds or evidences of indebtedness or equity deposited with them, acquired by them or otherwise coursed through them, either for their own account or for the account of others. This likewise includes all other entities regularly engaged in the lending of funds or purchasing of receivables or other obligations with funds obtained from the public through the issuance, endorsement or acceptance of debt instruments of any kind for their own account, or through the issuance of certificates of assignment or similar instruments with recourse, trust certificates, or of repurchase agreements, whether any of these means of obtaining funds from the public is done on a regular basis or only occasionally.
- 2.4 Quasi-banking Activities** - shall refer to the borrowing of funds from twenty (20) or more personal or corporate lenders at any one time, through the issuance, endorsement or acceptance of debt instruments of any kind other than deposits for the borrower's own account, or through the issuance of certificates of assignment or similar instruments, with recourse, or of repurchase agreements for purposes of relending or purchasing receivables and other similar obligations. Provided, however, that commercial, industrial and other non-financial companies, which borrows funds through any of these means for the limited purpose of financing their own needs or the needs of their agents or dealers, shall not be considered as performing quasi-banking functions.
- 2.5 Deposit Substitutes** - shall refer to an alternative form of obtaining funds from the public (the term 'public' means borrowing from twenty [20] or more individual or corporate lenders at any one time), other than deposits, through the issuance, endorsement, or acceptance of debt instruments for the borrower's own account, for the purpose of relending or purchasing of receivables and other obligations, or financing their own needs or the needs of their agent or dealer. These instruments may include, but need not be limited to, bankers' acceptances, promissory notes, repurchase agreements, including reverse repurchase agreements entered into by and between the Bangko Sentral ng Pilipinas (BSP) and any authorized agent bank, certificates of assignment or participation and similar instruments with recourse: *Provided, however, That debt instruments issued for inter-bank call loans with maturity of not more than five (5) days to cover deficiency*

in reserves against deposit liabilities including those between or among banks and quasi-banks shall not be considered as deposit substitute debt instruments.

- 2.6 **Insurance Companies** - shall refer to entities that undertakes for a consideration to indemnify another (insured) against loss, damage or liability arising from an unknown or contingent event.
- 2.7 **Financing Companies** - shall refer to corporations except banks, investments houses, savings and loan associations, insurance companies, cooperatives, and other financial institutions organized or operating under other special laws, which are primarily organized for the purpose of extending credit facilities to consumers and to industrial, commercial, or agricultural enterprises, by direct lending or by discounting or factoring commercial papers or accounts receivables, or by buying and selling contracts, leases, chattel mortgages, or other evidences of indebtedness, or by financial leasing of movable as well as immovable properties (R.A. No. 5980 as amended by R.A. No. 8556).
- 2.8 **Financial Leasing** - shall refer to the mode of extending credit through a non-cancellable lease contract under which the lessor purchases or acquires, at the instance of the lessee, machinery, equipment, motor vehicles, appliances, business and office machines, and other movable or immovable property in consideration of the periodic payment by the lessee of a fixed amount of money sufficient to amortize at least seventy percent (70%) of the purchase price or acquisition cost, including any incidental expenses and a margin of profit over an obligatory period of not less than two (2) years during which the lessee has the right to hold and use the leased property with the right to expense the lease rentals paid to the lessor and bears the cost of repairs, maintenance, insurance and preservation thereof, but with no obligation or option on his part to purchase the leased property from the owner-lessor at the end of the lease contract (R.A. No. 5980 as amended by R.A. No. 8556).
- 2.9 **Interest Income** – For purposes of these Regulations, the term shall include interest and discounts earned on loans and investment transactions.
- 2.10 **Gross Receipts** - For purposes of these Regulations, the term shall refer to the compensation for all financial and non-

financial services, or combination thereof, exclusive of the value added tax, performed by financial institutions within the Philippines, which compensation or fees are actually or constructively received during the month or quarter, which include:

- (a) Financial intermediation services fee;
- (b) Financial leasing income;
- (c) Rentals on properties, real or personal;
- (d) Royalties;
- (e) Commissions;
- (f) Trust fees;
- (g) Estate planning fees;
- (h) Service fees;
- (i) Other Charges or fees received as compensation for services;
- (j) Net trading gains;
- (k) Net foreign exchange gains;
- (l) Gain on sale or redemption of investments;
- (m) Net gain from the sale of properties acquired through foreclosure lodged under the account "Real and Other Properties Owned and Acquired" (ROPOA), which is measured by the difference between the selling price and the cost equivalent to the bid price or unpaid loan value, whichever is lower, at the time of foreclosure; and
- (n) All other receipts of income specified in Section 32(A) of the Code not otherwise enumerated above, except those derived from sale of goods and properties which has a different taxable base and, therefore, covered by a separate provision or sub-section of these regulations .

In determining gross receipts, any amount withheld by the payor of the income as taxes, i.e., on rentals, interests, etc., shall form part thereof under the doctrine of constructive receipt of income.

- 2.11. Gross Selling Price -** The term shall refer to the total amount of money or its equivalent which the purchaser pays or is obligated to pay to the seller in consideration of the sale, barter or exchange of the goods or properties, excluding the value-added tax. The excise tax, if any, on such goods or properties shall form part of the gross selling price. The gross selling price is multiplied by the VAT rate of 10% to arrive at the output VAT on sale of goods/properties.

SEC. 3. COMPUTATION OF OUTPUT TAX. - Section 3 of Revenue Regulations No. 18-99 is hereby amended to read as follows :

“SECTION 3. Computation of the Output Tax. —

3.1. On Financial Intermediation Services. - The output tax on the services rendered by financial institutions for financial intermediation shall be computed by multiplying the gross receipts from financial intermediation services by 10%.

3.2. On Financial Leasing . -

The VAT payable on financial leasing is computed in the same manner as that for financial intermediation services of financial institutions as discussed in Subsection 3.1 hereof.

In this case, the input tax on the purchase of equipment held for lease shall not qualify as deduction from output tax since the recognized income comprised only of interest income (recovery of principal not included).

3.3 On Net Foreign Exchange (Forex) Gains. - The output tax on forex gains shall be computed by multiplying by 10%, the monthly net forex gains realized, which is the difference between the value of the foreign currencies sold and purchased. The net forex gains during the month shall be considered as the gross receipts of the financial institution.

3.4 On Net Trading Gains. - The output tax on the trading of securities, commercial papers, and other financial instruments shall be computed by multiplying by 10% the net gain realized from the trading of securities, which gain is the spread between the yield or selling price from trading of such securities, commercial papers and instruments and the cost (carrying cost net of unearned discount) of obtaining the same. The net trading gain is the gross receipt of the financial institution from the trading of securities, commercial papers and other financial instrument.

3.5 On ROPOA Sales or Sales of Other Properties Acquired Through Foreclosure. - The output tax on ROPOA sales, as well as other properties acquired through

foreclosure sale, shall be determined by multiplying by ten percent (10%) the gain, or the difference between the amount realized at the time of sale and the cost thereof which is equivalent to the bid price or unpaid loan value, whichever is lower, at the time of the foreclosure of the property, which gain or difference shall be considered as the gross receipts of the financial institution from the aforesaid transactions.

- 3.6 **On Sale of Goods and Properties.** – With respect to the sale of goods and properties by financial institutions, the imposition of ten percent (10%) value added tax shall not be based on gross receipts derived therefrom but rather the same shall be based on the gross selling price or gross value in money of the goods or properties sold, bartered, or exchanged pursuant to Section 106 of the Code. Accordingly, the output tax shall be computed by multiplying the invoice amount by the factor 1/11 or the gross selling price by the VAT rate of 10%.
- 3.7 **All Other Income.** - With respect to all other income not mentioned above, VAT (output tax) shall be computed by applying the factor 1/11 on the total amount received therefrom or the VAT rate of 10% on the gross receipts.”

SEC. 4 TREATMENT OF OUTPUT TAX SHIFTED TO THE BUYER OF SERVICES. - Section 4 of Revenue Regulations No. 18-99 is hereby amended to read as follows :

“ SECTION 4. Treatment of the Output Tax Shifted to the Buyer of Services.- In general, the payor of the income/fee who is a VAT-registered person shall be entitled to claim the output tax paid by the financial institution as an input tax credit. On the other hand, if the payor is not a VAT-registered person, the VAT passed on by the payee shall form part of his cost. Provided, that a VAT receipt/invoice shall be issued by the payee for all the compensation for services received which shall be used as the evidence for the claim of input tax.

“The output tax shifted by the financial institutions must be separately billed in the invoice/receipt, the provisions of Revenue Regulations No. 8-99 to the contrary notwithstanding.”

SEC. 5. ALLOWABLE INPUT TAXES. - Section 5 of Revenue Regulations No. 18-99 is hereby amended to read as follows:

“SECTION 5. Allowable Input Taxes. – The financial institution shall be entitled to claim as credit against the output tax all input taxes evidenced by a

VAT invoice or official receipt issued in accordance with Section 113 of the Tax Code. This includes the VAT on importation or local purchase of goods and properties and the VAT on purchase of services. Provided, that, for purchase of services, the VAT must have been actually paid by the financial institution as evidenced by an official receipt.

Provided , that in the case of financial lease , no input tax shall be allowed on the purchase of goods which is the object of the contract of lease since only the interest income portion is being recognized or taken into consideration in recording gross receipts.

SEC. 6. RETURN AND PAYMENT OF VALUE-ADDED TAX. -

Section 6 of Revenue Regulations No. 18-99 is hereby repealed . In place thereof, a new provision relative to the filing of VAT return and payment of VAT is hereby added as Section 6 of said Regulations which shall read as follows:

“SECTION 6. Return and Payment of Value-added Tax. - All financial institutions shall file the value added tax return and pay the VAT in accordance with Revenue Regulations No. 7-95, as amended, on or before the 20th day following the close of the taxable month, for the monthly VAT Declaration, or on or before the 25th day following the close of the quarter, for the quarterly tax return, subject to the rules on filing of returns and payment of taxes under the Electronic Filing and Payment System. The monthly VAT Declaration or quarterly VAT return (BIR Form 2550M or 2550Q) shall be accompanied by a schedule showing the manner by which value added tax due and payable has been computed:

- (A) Where output tax (10% of gross receipts or 1/11 of the total amount billed and received, whichever is applicable) shall be computed;**
- (B) Where input tax shall be the VAT on imported and local purchase of goods and properties and the VAT on purchase of services.”**

SEC. 7. INVOICING AND RECEIPT REQUIREMENTS. - Section 8 of Revenue Regulations No. 18-99 is hereby renumbered as Section 7 and amended to read as follows :

“SECTION 7. Invoicing/Receipt Requirements.- Unless otherwise allowed under pertinent provisions of the laws and regulations, financial institutions shall for each transaction subject to VAT, issue duly registered receipts (for sale of services) or duly registered invoice (for sale of goods) which must show the –

- (a) name, TIN **(with suffix of the word VAT)**, business style, if any, and address of the financial institution;
- (b) date of transaction;
- (c) name, TIN, business style, if any, and address of the VAT-registered client;
- (d) **description of the nature of transaction;**
- (e) the invoice value or consideration **showing the VAT separately;**
- (f) **total amount billed or received; and**
- (g) **such other information as required in Section 237 of the Code.**

“For income/fees/charges received by the financial institution, the receipt/invoice must show the total amount charged and the VAT-registered payor shall be entitled to an input tax **for the VAT reflected in the receipt/invoice.**

“Provided, however, that with respect to net trading gains, net foreign exchange gains, and all other small items of income such as miscellaneous fees on returned checks, below minimum balances, dormant accounts, ATM withdrawals, etc., the financial institution shall be required to issue just one VAT Official Receipt reflecting the total transactions/net gains for the month and the corresponding total output tax due thereon. The word “various” shall be indicated in the space provided for the name of the customer in the invoice/receipt. However, the aforesaid Official Receipt cannot be used as basis in claiming input tax credits.

“Provided, further, that with respect to financial lease, the treatment shall be similar to that for the gross receipts by banks on financial intermediation services.

SEC. 8. TRANSITORY PROVISIONS. - The provisions of Section 7 on the transitory provisions of Revenue Regulations No. 18-99 is hereby renumbered as Section 8 thereof and replaced as follows:

“SECTION 8. Transitory Provisions. -

“8.1. Transitional Input Tax on Beginning Inventories. - Financial institutions becoming liable to VAT under these Regulations shall be entitled to a transitional input tax on the inventory of goods (other than capital goods), materials and supplies on hand as of December 31, 2002. The transitional input tax shall be 8% of the value of the inventory or actual VAT paid, whichever is higher, which amount may be allowed as tax credit against the output tax of the VAT-registered person. The value allowed for income tax purposes on inventories shall be the basis for the computation of the 8% transitional input tax.

In recognizing transitional input tax credit, a journal entry should be made in the books by debiting the input tax account and crediting the asset accounts (goods, materials and supplies). Provided, that the actual input tax to be claimed as transitional input tax credit shall be duly supported with VAT invoices.

“8.2. Business Registration. - All financial institutions shall be liable to the value-added tax on their gross receipts, or on gross selling price on certain type of transaction, as herein defined, beginning January 1, 2003, and shall then be entitled to claim actual input taxes on their purchases of goods, properties, and services covered by VAT invoice or receipt, beginning January 1, 2003 as well as transitional input tax, as aforementioned, provided that they are registered as VAT taxpayers, on or before March 31, 2003, with the appropriate office of the Bureau of Internal Revenue in accordance with Section 236 of the Code and its implementing regulations. They shall remain liable to the annual registration fee of five hundred pesos (P500.00) for every separate or distinct establishment or place of business on or before the 31st day of January of every year, except for new establishment where the registration fee must be paid before operating the establishment.

“Since 2003 is the transition year (shift from GRT to VAT), financial institutions are allowed to register as VAT taxpayers, without penalty, until March 31, 2003. Pending registration as VAT taxpayers, these financial institutions may still issue the non-VAT Receipts/Invoices to acknowledge receipt of payment from their clients/customers. However, these non-VAT receipts/invoices shall immediately be replaced by VAT Official Receipts upon availability thereof (after registration as VAT taxpayer) and, it is only at this point in time that the client/customer can claim an input tax credit.

“8.3. Unused Invoices or Receipts. - For purposes of these Regulations, all financial institutions should submit to the concerned office of the Bureau (Revenue District Office/Office under the Large Taxpayers Service) on or before March 31, 2003 an inventory of unused invoices or receipts as of December 31, 2002, indicating therein the number of booklets and the corresponding serial numbers for records keeping and reference purposes. Unused non-VAT invoices/receipts shall be allowed for use in transactions subject to VAT provided the phrase “VAT-registered as of _____” is stamped on all copies thereof. These unused invoices or receipts with the proper stamp shall be allowed for use in transactions up to June 30, 2003.

“Provided, that all taxpayers covered by these Regulations shall immediately cause the printing, registration and issuance of VAT invoices and receipts in conformity with Sections 238 and 237 in relation to Section 113 of the Code and their implementing regulations after registration as

VAT taxpayers and after consumption of unused invoices/receipts mentioned in the preceding paragraph or June 30, 2003, whichever comes first.

“8.4. Filing of Tax Return and Payment of Tax. – A transition period (shift from GRT to VAT) of two (2) months (January 2003 to February 2003) will be given to all taxpayers herein mentioned as liable to tax under these regulations. During this period, the financial institutions shall still be allowed to remit the gross receipts tax (GRT) pursuant to Sections 121 and 122 of the Code instead of the VAT under Section 108 (and Section 106, if applicable) of the same Code. These payments shall, nonetheless, be allowed as tax credit against the VAT Payable in the first quarter VAT return that will reflect the results of operation from January to March, 2003 and which Return will be filed on or before April 25, 2003 unless the taxpayer’s VAT filing period is on a fiscal quarter basis, in which case the deadline for fiscal quarter return shall apply.

“It is to be emphasized, however, that compliance to all laws, regulations and other issuances pertaining to VAT, except as otherwise allowed, shall be strictly followed.”

SEC. 9. REPEALING CLAUSE. - Any revenue issuances inconsistent herewith are considered amended, modified or revoked accordingly.

SEC. 10. EFFECTIVITY CLAUSE. - These Regulations shall take effect beginning January 1, 2003, unless otherwise provided herein.

(Original Signed)
JOSE ISIDRO N. CAMACHO
Secretary of Finance

Recommending Approval:

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