REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
National Office Building
Quezon City

Section 237 of the Tax Code, as amended; RA No. 8792; RR No. 17-2013, as amended by RR No. 05-2014		OT- 057 . 2023 MAY 19 2023

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Attention: **Eric R. Recalde**

Jacqueline Ann A. Tan

Gentlemen:

This refers to your request on behalf of your clients, **Analog Devices Gen. Trias, Inc.** ("ADGT") and **Analog Devices (Phils.), Inc.** ("ADPI"), for a ruling confirming your opinion that ADGT and ADPI's (the "Companies") preservation of the electronic scanned copies of the invoices and receipts of their domestic suppliers and vendors, instead of the original hard copies, is sufficient to comply with Section 237 of the National Internal Revenue Code of 1997 (Tax Code), as amended by Republic Act No. 10963 (Tax Reform for Acceleration and Inclusion [TRAIN] Law).

It is represented that both ADGT and ADPI are domestic corporations duly organized and existing under Philippine Laws with business address at Sandoval St., Gateway Business Park, Brgy. Javalera, General Trias City, Cavite. ADGT with Taxpayer Identification No. (TIN) is engaged in the manufacturing support, such as processing and testing of high-performance data acquisition electronic products, components and devices and to provide business process outsourcing activities. On the other hand, ADPI with TIN is engaged in the business of manufacturing support such as assembly, processing and testing of high-performance data acquisition electronic products, components and other semi-conductor devices and other electronic devices.

It is also represented that both Companies are classified as Large Taxpayers (LTs) under the Regular LT Division 1 of the Bureau of Internal Revenue. Additionally, both Companies have been granted authority to use computerized accounting records of its General Ledger, Voucher Register, Sales Invoice Register, Cash Receipts Register, Cash Disbursements Register and General Journal Register. Moreover, the BIR issued the Companies Permit to Adopt/Use Computerized Books of Account and other Accounting Records (CBA/AR).

Several of the Companies' vendors and suppliers, however, do not adopt a computerized accounting system. In this regard, the Companies intend to put a system in place where their

vendors and suppliers can send them scanned electronic copies to an official online invoice receiving system that triggers an e-mail notification of the submission. The scanned copy will be created by way of a computer scanner or smart phone mobile device, and such copy must be complete and contain all the information found in the original hard copies. Additionally, the front and dorsal pages of the original hard copies must be signed and must be preserved and maintained in the offices of the vendors and suppliers for five (5) years. Once the scanned electronic copies are received, ADGT and ADPI will store in a database management system the summary and e-mail notification and attached scanned electronic invoice and receipt in their computer storage systems for three (3) years.

In this regard, you want to know whether the keeping and preserving of electronic scanned copies of the invoices and receipts of the suppliers and vendors is sufficient to comply with Section 237 of the Tax Code, as amended.

In reply, ***Section 237 (A) of the Tax Code***, as amended, provides the rule on the preservation and maintenance of the original of each receipt and invoice to the purchaser, customer or client, to wit:

> *"SEC. 237. Issuance of Receipts or Sales or Commercial Invoices. –*
>
> *(A) Issuance. – xxx xxx xxx*
>
> *The original of each receipt or invoice shall be issued to the purchaser, customer or client at the time the transaction is effected, who, if engaged in business or in the exercise of profession, shall keep and preserve the same in his place of business for a period of three (3) years from the close of the taxable year in which such invoice or receipt was issued, while the duplicate shall be kept and preserved by the issuer, also in his place of business, for a like period:* ***Provided, That in case of electronic receipts or sales or commercial invoices, the digital records of the same shall be kept by the purchaser, customer or client and the issuer for the same period above stated."*** (Emphasis and underscoring ours)

We note that the TRAIN Law now allows electronic receipts and commercial invoices in lieu of manual receipts and invoices, subject to the rules and regulations to be issued by the Secretary of Finance. However, the introduction of the electronic receipts and invoices in the Tax Code, as amended, must be read in conjunction with ***Republic Act (RA) No. 8792, otherwise known as the "Electronic Commerce Act of the Philippines (E-Commerce Act)"***. For an electronic document to be considered an original document under the E-Commerce Act, the following requirements must be present:

> *"SECTION 10. Original Documents. –*
>
> *(1) Where the law requires information to be presented or retained in its original form, that requirement is met by an electronic data message or electronic document if:*
>
> ***(a) the integrity of the information from the time when it was first generated in its final form, as an electronic data message or electronic document is shown by evidence aliunde or otherwise;*** *and*

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(b) where it is required that information be presented, that the information is capable of being displayed to the person to whom it is to be presented.

(2) Paragraph (1) applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequence for the information not being presented or retained in its original form.

(3) For the purpose of subparagraph (a) of paragraph (1):

*(a) **the criteria for assessing integrity shall be whether the information has remained complete and unaltered, apart from the addition of any endorsement and any change which arises in the normal course of communication, storage and display**; and*

(b) the standard of reliability required shall be assessed in the light of the purpose for which the information was generated and in the light of all relevant circumstances." (Emphasis and underscoring ours)

Based on the aforequoted provision, the criteria for assessing integrity cannot be satisfied by a scanned document if the original document from which the scanned document was based on does not exist anymore. The scanned document alone cannot prove the integrity of the document. Thus, it is not considered an electronic document and, therefore, not an original document.

Moreover, in ***MCC Industrial Sales Corporation vs. Ssangyong Corporation***[1] the Supreme Court explained the process of an ordinary facsimile (which is akin to a scanned document) in this manner:

*"There is no question then that when Congress formulated the term "electronic data message," it intended the same meaning as the term "electronic record" in the Canada law. **This construction of the term "electronic data message," which excludes telexes or faxes, except computer-generated faxes, is in harmony with the Electronic Commerce Law's focus on "paperless" communications** and the "functional equivalent approach" that it espouses. In fact, the deliberations of the Legislature are replete with discussions on paperless and digital transactions.*

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*Accordingly, in an **ordinary facsimile transmission, there exists an original paper-based information or data that is scanned**, sent through a phone line, and re-printed at the receiving end. Be it noted that in enacting the Electronic Commerce Act of 2000, **Congress intended virtual or paperless writings to be the functional equivalent and to have the same legal function as paper-based documents. Further, in a virtual or paperless environment, technically, there is no original copy to speak of, as all direct printouts of the virtual reality are the same, in all respects, and are considered as originals.** Ineluctably, **the law's definition of "electronic data message," which, as aforesaid, is interchangeable with "electronic document," could not have included***

[1] G.R. No, 170633, October 17, 2007

> ***facsimile transmissions, which have an original paper-based copy*** *as sent and a paper-based facsimile copy as received. These two copies are distinct from each other, and have different legal effects."* (Underscoring and emphasis ours)

Please note that the E-Commerce Act contemplates of a paperless environment where there is no original copy since all direct print-outs of the virtual reality are the same and are considered as originals. In a scanned document, however, there is no paperless practice as the scanned copy came from an original printed copy. Therefore, the electronic receipts or sales or commercial invoices stated in Section 237 of the Tax Code, as amended, entails documents generated electronically and without an existing print-out or hard copy.

With regard to the retention period of receipts or commercial invoices, please note that ***RR No. 17-2013, as amended by RR No. 05-2014***, correlates the preservation of books of accounts and other accounting records with the period on assessment of internal revenue taxes. According to said RRs, books of accounts and other accounting records must be preserved by the taxpayer for a period of ten (10) years from the day following the deadline of filing a return or from the date of its filing, whichever comes later. Within the first five years, hard copies of the accounting records must be preserved and kept. Thereafter, the taxpayer may retain only an electronic copy of such accounting records in an electronic storage system for the remaining five (5) year period. Relevant provision of the RR reads as follows:

> *"SECTION 2. RETENTION PERIODS. – All taxpayers are required to* ***preserve their books of accounts, including subsidiary books and other accounting records, for a period of ten (10) years reckoned from the day following the deadline in filing a return, or if filed after the deadline, from the date of the filing of the return, for the taxable year when the last entry was made in the books of accounts****: Provided that,* ***within the first five (5) years reckoned from the day following the deadline in filing a return, or if filed after the deadline, from the date of the filing of the return, for the taxable year when the last entry was made in the books of accounts, the taxpayer shall retain hardcopies of the books of accounts, including subsidiary books and other accounting records.*** *Thereafter, the taxpayer may retain only an electronic copy of the hardcopy (paper) of the books of accounts, subsidiary books and other accounting records in an electronic storage system which complies with the requirements set forth under Section 2-A hereof.*
>
> *The term "****other accounting records****" includes the* ***corresponding invoices, receipts, vouchers and returns, and other source documents supporting the entries in the book of accounts."*** *(Emphasis and Underscoring Ours)*
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> xxx xxx xxx

The reason for extending the retention period of the accounting records supporting the entries in the books of accounts from three (3) to ten (10) years is for the best interest of the government and taxpayer pursuant to Section 203 in relation to Section 222 of the Tax Code, as amended.

Under ***Section 203 of the Tax Code***, as amended, "internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of the return, and no proceeding in court without assessment for the collection of such taxes shall be begun after the

expiration of such period: Provided, That in a case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be counted from the day the return was filed." As an exception thereto, ***Section 222*** of the same Code extends the assessment to ten (10) years in case of submission of false and fraudulent return or failure to file the same, hence:

> *"SEC. 222. Exceptions as to Period of Limitation of Assessment and Collection of Taxes. –*
>
> *(a) **In the case of a false or fraudulent return with intent to evade tax or of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be filed without assessment, at any time within ten (10) years after the discovery of the falsity, fraud or omission**: Provided, That in a fraud assessment which has become final and executory, the fact of fraud shall be judicially taken cognizance of in the civil or criminal action for the collection thereof."* (Emphasis and Underscoring Ours)

Based on the above-mentioned provisions, a taxpayer's accounting records may be needed beyond the three-year period prescribed under Section 237 of the Tax Code, as amended, if the taxpayer is later investigated by the BIR for any falsity, fraud or omissions in paying the internal revenue taxes. In such case, the investigation would be conducted "within ten (10) years after the discovery of the falsity, fraud or omission." Further, the taxpayer's accounting records would also be needed beyond the three-year period of limitation if, before the expiration thereof, both the Commissioner or his duly authorized representative and the taxpayer have agreed in writing (also known as the Waiver of the Statute of Limitations) to its assessment and/or collection after the said period.

In view of the foregoing, the preservation of the hard and scanned copies of the invoices and receipts of ADGT and ADPI's domestic suppliers and vendors must still observe the retention period provided in Section 2 of RR No. 17-2013, as amended by RR No. 05-2014.

This ruling is issued on the basis of the facts as represented. However, if upon investigation it shall be disclosed that the actual facts are different, then this ruling shall be without force and effect insofar as the herein parties are concerned.

Very truly yours,

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue
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