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

December 26, 2003

REVENUE MEMORANDUM CIRCULAR NO. 2-2004

SUBJECT: CLARIFYING THE ISSUES ON VAT TAXABLE TRANSACTIONS OF PHILIPPINE PORTS AUTHORITY AMENDING REVENUE MEMORANDUM CIRCULAR NO. 20-88, PURSUANT TO REPUBLIC ACT 7716 AS IMPLEMENTED BY REVENUE REGULATIONS 7-95.

TO : All Internal Revenue Officials, Employees and others Concerned.

Background

Pursuant to the enactment into law of Republic Act No. 7716, "An Act Restructuring the Value Added Tax (Vat) System, Widening its Tax Based and Enhancing its Administration and for These Purposes Amending and Repealing the Relevant Provisions of the National Internal Revenue Code, as Amended, and for Other Purposes", as implemented by Revenue Regulations No. 7-95, there is a need to amend and clarify Revenue Memorandum Circular No. 20-88, "Publishing Questions and Answers relative to the Operations of the Philippine Ports Authority, issued pursuant to the 1977 National Internal Revenue Code, as amended.

In view of the fact that Section 1 of R.A. 7716, has amended Section 99 of the 1977 National Internal Code, to provide as follow:

> *"Sec. 99. Persons Liable. - Any person who, in the course of trade or business, sells, barters, exchanges, leases goods or properties, renders services, and any person who imports goods shall be liable to the value-added tax (VAT) imposed in Sections 100 to 102 of this Code.*
>
> *"The value-added tax is an indirect tax and the amount of tax may be shifted or passed on to the buyer, transferee or lessee of the goods, properties or services. This rules likewise apply to existing contracts of sale or lease of goods, properties or services at the time of the effectivity of this Act.*
>
> *"The phrase 'in the course of trade or business' means the regular conduct or pursuit of a commercial or an economic activity, including transactions incident thereto, by any person regardless of*

whether or not the person engaged therein is a non-stock, non-profit private organization (irrespective of the disposition of its net income and whether or not it sells exclusively to members or their guests), or government entity.

"The rules of regularity, to the contrary, notwithstanding, services as defined in this Code rendered in the Philippines by nonresident foreign persons shall be considered as being rendered in the course of trade or business."

pertinent provisions of Revenue Memorandum Circular No. 20-88 has been effectively amended with the enactment of republic Act No. 7716.

VAT Liability of the Philippine Port Authority.

In view of the enactment of Republic Act No. 7716, all fees and charges collected by the Philippine Ports Authority (PPA) such as, but not limited to the following, are subject to value added tax:

1. Port Dues (Harbor fees)/Anchorage fees
2. Dockage-Berthing Income
3. Usage fee
4. Wharfage fees
5. Storage fees
6. Lay-up fees
7. Share in Arrastre/Stevedoring Income
8. Fund Management Income
9. Pilotage
10. All Other Income

Compliance Requirements

The Philippine Ports Authority (PPA) shall, for every sale, issue invoice or receipt which shall contain, in addition to the information required under Section 237 of the National Internal Revenue Code of 1997, the following information:

(1) A statement that PPA is a VAT-registered person, followed by its tax identification number (TIN),

(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.

The PPA shall file a quarterly return of the amount of his quarterly gross sales or receipts within twenty five (25) days following the close of the taxable quarter using the latest version (April 2002 (ENCS) version) of Quarterly VAT Return (BIR Form 2550Q-April 2002 (ENCS)).

Amounts reflected in the monthly VAT declarations for the first two (2)

months of the quarter shall still be included in the quarterly VAT return which reflects the cumulative figures for the taxable quarter. Payments in the monthly VAT declarations shall, however, be credited in the quarterly VAT return to arrive at the net VAT payable or excess input tax/over-payment as of the end of a quarter.

The PPA shall pay the tax monthly based on the taxable sales/receipts for the month, using the VAT declaration from within twenty (20) days after the end of each month.

The VAT payable/Excess Input Tax (output tax less input tax) for each taxable quarter shall be reduced by the total amount of tax(es) previously paid for the immediately preceding two (2) months, and the advance payments/creditable VAT withheld by the payors for the three months of the quarter.

The monthly VAT declaration and quarterly return shall be filed with, and the VAT due thereon paid to an Accredited Agent Bank (AAB) under the jurisdiction of the Revenue District/BIR Office where the PPA head office is registered. In case where no payment is involved, the quarterly VAT return and the monthly VAT declaration shall be filed with the Revenue District Officer (RDO) where the PPA head office is registered.

Only one consolidated quarterly VAT return or monthly VAT declaration covering the results of operation of the head office as well as the branches for all lines of business subject to VAT shall be filed by the taxpayer, for every return period, with the Revenue District/BIR Office where the PPA head office is registered.

All Revenue officials and employees are enjoined to give this circular as wide a publicity as possible.

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