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

BUREAU OF INTERNAL REVENUE RECEIVED 4:50 P.M. DEC 19 2018 RECORDS MGT. DIVISION

BUREAU OF INTERNAL REVENUE COMMUNICATIONS DIVISION RECEIVED DEC 19 2018

December 17, 2018

REVENUE MEMORANDUM CIRCULAR NO. 105-2018

SUBJECT : Clarifying the Payment of Excise Tax on Domestic Coal Pursuant to the Provisions of Revenue Regulations No. 1-2018, Amending for the Purpose Revenue Regulations No. 13-94

TO : All Internal Revenue Officers and Others Concerned

SECTION 1. SCOPE. This circular is issued to clarify the payment of excise tax on domestic coal under Revenue Regulations (RR) No. 1-2018, which provides for the revised tax rates on mineral products pursuant to the provisions of Republic Act (RA) No. 10963, otherwise known as the *"Tax Reform for Acceleration and Inclusion (TRAIN)" Law,* amending for the purpose RR No. 13-94.

SECTION 2. BACKGROUND

Section 151 of the National Internal Revenue Code (NIRC) of 1997, as amended, was further amended by RA No. 10963, which became effective on January 1, 2018, to *wit:*

> *"SEC. 48. Section 151 of the NIRC, as amended, is hereby further amended to read as follows:*
>
> *(A) Rates of Tax. – There shall be levied, assessed and collected on minerals, mineral products and quarry resources, excise tax as follows:*
>
> *(1) On domestic or imported coal and coke, notwithstanding any incentives granted in any law or special law:*
>
> *Effective January 1, 2018, Fifty pesos (P50.00) per metric ton;*
>
> *Effective January 1, 2019, One hundred pesos (P100.00) per metric ton; and*
>
> *Effective January 1, 2020, One hundred fifty pesos (P150.00) per metric ton;*
>
> *xxx xxx xxx"* (Emphasis supplied)

Pursuant to the said amendment, RR No. 1-2018 was issued amending RR No. 13-94. Section 3 of RR No. 1-2018, provides that:

> *"SEC.3. Amending Section 5 of RR No. 13-94*
>
> *xxx xxx xxx*
>
> *Coal produced under Coal Operating Contracts entered into by the government pursuant to Presidential Decree No. 972 as well as those exempted*

from excise tax on mineral products under other laws shall now be subject to the applicable rates above beginning January l, 2018.

xxx xxx xxx"

SECTION 3. CLARIFICATIONS

Excise tax on coal is a tax levied on the product, rather than on the performance, carrying on or the exercise of an activity, such as mining of coal. The general rule is that the producer of a product is the one liable for the excise tax thereon. However, since the excise tax is attached to the product itself, if the tax is unpaid and possession is transferred to the buyer, the buyer/possessor of the product can be made liable for the excise tax.

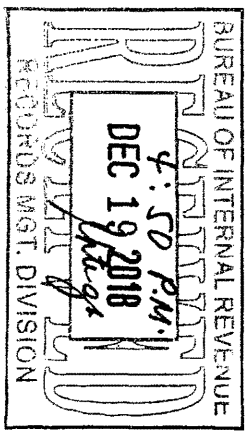
Relative thereto, the second paragraph of Section 130 (A) (1) of the NIRC of 1997, as amended, states that *"Should domestic products be removed from the place of production without the payment of the tax, the owner or person having possession thereof shall be liable for the tax due thereon"*. Accordingly, in situations contemplated under the second paragraph of Section 130 (A) (1) of the NIRC of 1997, as amended, and for ease of collection and for purposes of control, the producer shall act as collecting agent of the tax due from the first buyer/possessor and remit the same using BIR Form 2200 M – Excise Tax Return for Mineral Products to the Bureau of Internal Revenue (BIR), reflecting therein the buyer's name and the TIN.

In view of the foregoing, the following shall be enforced:

1. In the event that the excise tax on locally produced coal is not paid by the producer of the product, the excise tax due thereon shall be collected from the first buyer / possessor.

2. The excise tax collected from the buyer /possessor shall be reflected separately in the invoice issued by the producer covering the coal sold. This amount collected from the first buyer / possessor shall be payable to the BIR and shall not form part of the selling price of the coal. The excise tax due to the BIR shall be extinguished upon remittance of the same by the producer to the BIR.

   Illustration:



To record sales:		
Receivable - Trade	100,000	
Receivable – Non-trade (excise tax)	1,000	
Revenue		100,000
Due to BIR (for the excise tax collected from buyer		1,000
Upon payment and remittance to BIR		
Due to BIR	1,000	
Cash		1,000
Upon collection from first buyer		
Cash	101,000	
Receivable – Trade		100,000
Receivable – Non-trade		1,000

3. As a collecting agent of the excise tax due from the first buyer/possessor, the producer shall file via EFPS and remit the excise tax to the BIR using BIR Form 2200 M – Excise Tax Return for Mineral Products, as prescribed under RR No. 1-2002, within ten (10) days from the date of such sale,

transfer or disposition, together with the submission of relevant documents proving the transfer or disposition.

4. Finally, in the case of a producer subject to excise tax, such producer shall be subject to all the administrative and reportorial requirements as prescribed under applicable existing rules and regulations.

SECTION 4. TRANSITORY PROVISIONS

The following transitory provisions shall be strictly observed by all concerned:

a. The excise tax due on domestic coal removed for domestic consumption shall be collected by the producer of the domestic coal from the first buyer/ possessor effective January 1, 2018 (effectivity of the TRAIN Law);

b. The producer shall remit on or before **December 31, 2018** to the BIR the amount of excise tax on domestic coal collected from the first buyer/possessor covering the period January 1, 2018 to November 30, 2018 using BIR Form 2200 M, without increments (surcharge and interest) if settled within the herein prescribed period. Henceforth, excise tax collected by the producer on domestic coal removed and sold for domestic consumption shall be filed / remitted within 10 days from the date of sale, transfer or disposition.

c. The producer of the domestic coal shall provide to the BIR the data on production, volume of removal and sale covering the period January 1, 2018 to November 30, 2018 for the determination of the amount of excise tax to be remitted to the BIR.

d. A separate revenue issuance shall be issued covering excise tax treatment on domestic coal removed for export.

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

CAESAR R. DULAY
Commissioner of Internal Revenue

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