REPUBLIKA NG PILIPINAS
KAGAWARAN NG PANANALAPI
KAWANIHAN NG RENTAS INTERNAS

March 5, 2007

REVENUE MEMORANDUM CIRCULAR NO. 15-2007

SUBJECT	:	Publishing the Full Text of the Memorandum of Agreement between the Philippine Economic Zone Authority (PEZA) and the Bureau of Internal Revenue (BIR) Executed on March 1, 2007
TO	:	All Revenue Officials and Personnel and Others Concerned

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Circularized hereunder is the full text of the Memorandum of Agreement between the Philippine Economic Zone Authority (PEZA) and the Bureau of Internal Revenue (BIR) executed on March 1, 2007:

"***MEMORANDUM OF AGREEMENT***

KNOW ALL MEN BY THESE PRESENTS:

This Agreement is made and entered into by and between:

The PHILIPPINE ECONOMIC ZONE AUTHORITY, a government corporation created and operating under Republic Act No. 7916, as amended, with principal office at the PEZA Building, Roxas Blvd. cor. San Luis St., Pasay City, represented herein by its Director General, LILIA B. DE LIMA, who is duly authorized, hereinafter referred to as the PEZA;

and

The BUREAU OF INTERNAL REVENUE, a government agency under the Department of Finance (DOF), with principal office at the BIR National Office Building, Agham Road, Diliman, Quezon City, represented herein by its Commissioner, JOSE MARIO C. BUÑAG, who is likewise duly authorized, hereinafter referred to as the BIR;

WITNESSETH THAT:

WHEREAS, the National Internal Revenue Code of 1997 (Tax Code), as amended, mandates the BIR to administer and execute all internal revenue tax laws;

WHEREAS, Sec. 5(B) thereof authorizes the BIR Commissioner and his subordinates to obtain on a regular basis, from any person, government agencies and instrumentalities any information to ascertain the liability of any person for any internal revenue tax;

WHEREAS, Sec. 203 thereof provides that internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of tax return, or from the date of filing of the said return, whichever comes later;

WHEREAS, Sec. 13(b) of Republic Act (R.A.) No. 7916, otherwise known as "The Special Economic Zone Act of 1995", as amended, mandates the PEZA "to register, regulate and supervise the enterprises in the ECOZONE in an efficient and decentralized manner";

WHEREAS, Secs. 1 and 5 of Rule XIII, Part VII of the Rules and Regulations implementing R.A. No. 7916, as amended, provide that all applications for availment of incentives shall be filed with the PEZA, and the incentives granted by the PEZA shall apply only to registered operations of the ECOZONE Enterprise, and only during the period of its registration with the PEZA;

WHEREAS, there is an imperative need to institutionalize coordination between the PEZA and the BIR in order to effectively administer the income tax holiday (ITH) and the 5% tax on gross income earned (GIT) incentives enjoyed by PEZA-registered enterprises;

NOW, THEREFORE, for and in consideration of the foregoing premises, the PEZA and the BIR, through their respective representatives, subject to the provisions of Sec. 270 (Unlawful Divulgence of Trade Secrets) in conjunction with Sec. 71 (Disposition of Income Tax Returns, Publication of Lists of Taxpayers and Filers) of the Tax Code, as amended, do hereby agree to undertake the following:

A. The PEZA shall:

1. ***Require all PEZA-registered enterprises to register their area of operations (head office, branch or facility) with the appropriate BIR Revenue District Offices (RDOs) having jurisdiction over such area (head office, branch or facility) located in the PEZA-owned economic zones, PEZA-administered Special Economic Zone/s (SEZ), IT Parks, IT buildings and the like, pursuant to the registration requirements provided under Sec. 236 of the Tax Code, as amended, and its implementing regulations;***

2. ***Require all registered enterprises entitled to ITH and/or the 5% GIT incentive to secure from PEZA on an annual basis a certification that the enterprise is a bona fide PEZA-registered enterprise entitled to ITH and/or the 5% GIT incentive, and to attach the said certification to their annual Income Tax Returns (ITRs) upon filing thereof;***

3. ***Require all registered enterprises to submit to PEZA a copy of their annual ITRs, together with the Audited Financial Statements (AFS) and other required supporting attachments/schedules filed with the BIR and duly stamped "Received" by the BIR, within thirty (30) days from the prescribed last day of filing thereof with the BIR, or actual filing thereof whichever comes later, submission of which shall serve as sufficient compliance to the requirements for availment of incentives provided under Rule XIII, Part VII of the Rules and Regulations implementing R.A. No. 7916, as amended;***

4. ***Furnish the BIR the following:***

   a. ***On or before January 31 of each year, an alphabetical master list of PEZA-registered enterprises which are entitled to ITH and/or the 5% GIT incentive, with the following column headings:***

      i. ***Name of Registered Enterprise;***
      ii. ***Type of Registered Enterprise;***
      iii. ***TIN of Registered Enterprise;***
      iv. ***Zone Location(s) /Address;***
      v. ***PEZA Registration Certificate No. of the Enterprise;***
      vi. ***Date of PEZA Registration of the Enterprise;***
      vii. ***Registered activities and the following information on each:***
         - ***Date of registration;***
         - ***Type of Incentives (i.e., ITH or 5% GIT);***
         - ***ITH entitlement period plus extension, if any;***
         - ***Date of Start of Commercial Operations;***
         - ***Percentage of export sales as against volume of production;***

   b. ***Not later than July 31 of each year, furnish an update of the list identified in Item 4 (a) above with the following additional information:***

      i. ***Whether or not the registered enterprises submitted their final annual ITRs, together with the AFS and other required supporting attachments/schedules, and whether or not they submitted the same on time pursuant to Item A.3 above;***

      ii. ***New PEZA-registered enterprises together with the information listed in Item A.4(a) above;***

      iii. ***PEZA-registered enterprises whose registration were cancelled, the reason for the cancellation, and the date of cessation of operations;***

5. ***Coordinate and work closely with the BIR to ensure effective monitoring of incentive availments (ITH or 5% GIT) by PEZA-registered enterprises, and provide documents, records and such other valuable information relevant to their incentives claims; and***

6. ***Within one (1) year from receipt by PEZA of the documents described in Item A.3 above, endorse the same to the BIR, together with PEZA's (a) validation that the period covered by the annual ITRs is covered by the ITH / 5% GIT incentive of the enterprise concerned, on a per registered activity / project basis; (b) determination of the incomes that should not be covered by ITH / 5% GIT, if any; and (c) validation of the actual percentage of export sales.***

B. The BIR shall:

1. ***Within one (1) year prior to the end of the three (3) – year prescriptive period provided under Sec. 203 of the Tax Code, as amended, conduct, through the Assessment Service in the BIR***

National Office, review of the documents bearing on incentive availment endorsed by PEZA;

If any deficiency tax assessment arises from the review of incentive availment, the Assessment Service shall transmit its findings of discrepancy and the corresponding documents to the concerned RDOs to enforce the immediate collection thereof, including increments accruing thereon;

2. *Conduct immediate audit of enterprises that claimed income tax exemptions but failed to submit to PEZA a copy of their final annual ITRs and AFS pursuant to Item A.3 of this Agreement and enforce collection of income taxes pertaining to invalidated ITH / 5% GIT incentive claims, including all increments accruing thereon;*

3. *Inform PEZA of its findings resulting from its review within thirty (30) days after the approval by the concerned BIR official;*

4. *Furnish PEZA with copies of pertinent BIR regulations, rulings, other revenue issuances, and other information within thirty (30) days from issuance thereof, the latter however, is subject to the provisions of Sec. 270, in conjunction with Sec. 71 of the Tax Code, as amended; and*

5. *Issue a Revenue Memorandum Circular for the effective implementation of the provisions of this Agreement.*

C. *The PEZA and BIR shall:*

1. *Within thirty (30) days from signing of this Agreement, create a Working Group, with the inclusion of one representative each from the Department of Finance (DOF) and Department of Trade and Industry (DTI), that shall oversee and monitor the proper implementation of the provisions of this Agreement, including the creation of a database on investment incentives for policy purposes;*

2. *Within thirty (30) days from the creation of the Working Group, promulgate and disseminate their respective guidelines for the implementation of the provisions of this Agreement;*

3. *Undertake to promptly resolve any issues involving discrepancies in exchanged data/information; and*

4. *Disseminate to concerned parties the contents of this Agreement in order to make them aware of the herein requirements.*

D. *Transitory Provisions:*

1. *PEZA's endorsement of the annual ITRs and AFS of enterprises covering taxable years 2004 (ending July 31, 2004 up to June 30, 2005) and 2005 (ending July 31, 2005 up to June 30, 2006), together with the corresponding information indicated in Item A.6 of this Agreement shall be transmitted to the BIR not later than July 31, 2007 for taxable year 2004, and May 31, 2008 for taxable year 2005; and*

2. The first alphabetical master list of PEZA-registered enterprises to be furnished by the PEZA to the BIR under Item A.4.b of this Agreement shall be transmitted to the BIR not later than July 31, 2007.

E. Effectivity:

This Agreement shall apply to ITH or 5% GIT incentives availments covering taxable year ending July 31, 2006 and onwards, unless revoked by the parties.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures this 1st day of March, 2007, in the City of Pasay, Philippines.

PHILIPPINE ECONOMIC ZONE AUTHORITY (PEZA)	***BUREAU OF INTERNAL REVENUE (BIR)***
By:	***By:***
(Original Signed) LILIA B. DE LIMA Director General	***(Original Signed) JOSE MARIO C. BUÑAG Commissioner***

SIGNED IN THE PRESENCE OF:

(Original signed) JUSTO PORFIRIO YUCINGCO Deputy Director General PEZA	***(Original signed) ERLINDA A. SIMPLE Assistant Commissioner BIR"***

All concerned are hereby enjoined to be guided accordingly and give this circular as wide as publicity as possible.

(Original Signed)
JOSE MARIO C. BUÑAG
Commissioner of Internal Revenue

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