REPUBLIKA NG PILIPINAS
KAGAWARAN NG PANANALAPI
KAWANIHAN NG RENTAS INTERNAS

19 April 2005

Revenue Memorandum Circular No. 16 - 2005

Subject : Clarification to Revenue Regulations No. 3-2005 Implementing Executive Order 398

To : All Internal Revenue officers and Other Concerned

Background:

In executing EO 398 and its implementing RR 3-2005, a number of issues has cropped up.

The following questions and answers are hereby issued to resolve these issues:

Questions and Answers

Q-1 Must the Tax Clearance submission under 2.2 of RR3-2005 be specific to a particular bidding, i.e., the tax clearance can not be used for other biddings?

A-1 No. The Tax Clearance to be issued by BIR will have a validity period of one (1) year from date of issuance. It should be accepted upon submission for all biddings that will be undertaken within the period of effectivity of the Tax Clearance.

Q-2 Is there a need for a Tax Clearance Applicant to Personally Appear/Submit before a BIR office/BIR officer?

A-2 No. Request for Tax Clearance containing the data elements in 4.4.1 of RR 3-2005 must be faxed to BIR Telefax No. 928-7466 Attention: Division Head, Collection Enforcement Division.

Q-3 On what basis will the Collection Enforcement Division (CED) issue a Tax Clearance.

A-3 All Regional and District offices will be required to submit Monthly Updated list of taxpayers with tax liabilities within their jurisdiction. These lists will be consolidated by CED along with its own list to create/maintain file called

Delinquent Taxpayers List. If the applicant/taxpayers is not in the list, CED will motu propio release to the applicant the requested Tax Clearance.

Q-4 What must a taxpayer listed in the delinquency list do to be removed from the Delinquent List and obtain a Tax Clearance?

A-4 A delinquent taxpayer will be issued a Tax Clearance showing his delinquent accounts. The applicant must settle such delinquent accounts with the Region/District concerned. Only then said taxpayer shall be removed from the Delinquent Taxpayers List and a Tax Clearance will now be issued.

Q-5 What must the recipient government agency do with the Tax Clearance submission of the bid participant?

A-5 It is recommended that government agencies maintain a file of Valid Tax Clearances. To validate a submitted tax clearance, the verification channels in 4.5 of RR 3-2005 must be utilized. Once in the agency's Valid Tax Clearance file it can be used to verify future submissions within the validity date of the Clearance.

Q-6 In case the government agency does not have yet a Valid Tax Clearance file, how can it validate a submitted clearance?

A-6 Sec. 4.5 of RR 3-2005 provides authenticity check either by telephone with the BIR Contact Center (Tel No. 981-8888) or thru the BIR Portal (www.mybir.gov.ph). The website would show the list of Valid Tax Clearances issued by the Bureau.

Q-7 Are there no exceptions to Sections 4.1 and 4.2 of RR 3-2005 (mandatory EFPS filing and acceptable tax return submission respectively)?

A-7 Bidders for Low levels of government procurement as for example, at the Barangay level may be exempted from 4.1 and 4.2 and continue to submit manually filed tax returns if approved by the Government Procurement Policy Board (GPPB).

Q-8 If the taxpayer/contractor is a foreign corporation in its first year to engage in business in the Phils., what would be its latest income tax return?

A-8 Section 3.2 defines latest ITR for new establishments as, in the absence of annual ITR, the most recent quarter's ITR. In case the bidder legitimately does not have a BIR received ITR in view of its newness, a sworn statement shall be submitted, in lieu of aforementioned returns stating therein such information as to when the company was formed, started operation; that it has not received any income for the month/quarter from business in the Phils. for which a tax return should have been filed.

Q-9 How can the procuring entity, if it opts to verify the information stated in the sworn statement executed by the officers of the foreign corporation?

A-9 As in the case of ITR and business tax returns, the procuring entity may validate the data provided by the foreign corporation through the Contact Center, particularly the date of its incorporation in the Phils.

(Original Signed)
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Commissioner of Internal Revenue