REPUBLIKA NG PILIPINAS
KAGAWARAN NG PANANALAPI
KAWANIHAN NG RENTAS INTERNAS

June 29, 2005

REVENUE MEMORANDUM CIRCULAR NO. 29 - 2005

SUBJECT : Clarifying the Provisions of Republic Act No. 9337 (VAT Law of 2005) Applicable to the Petroleum Industry

TO : All Internal Revenue Officers and Others Concerned

This Revenue Memorandum Circular is issued in order to clarify certain provisions of the National Internal Revenue Code, as amended by Republic Act No. 9337, affecting transactions of oil refineries, importers of refined petroleum products, including intermediate petroleum products, as well as their dealers, customers and local suppliers that are already subject to the value-added tax (VAT) effective July 1, 2005.

Q1. What previously VAT-exempt transactions in the petroleum industry are now covered by VAT beginning July 1, 2005?

A1. Beginning July 1, 2005, the following transactions, among others, are subject to VAT:

1. Importation and sale of crude oil
2. Importation and sale of coal
3. Importation and sale of raw materials to be used in the manufacture of refined petroleum products, including intermediate products
4. Sale of indigenous petroleum
5. Importation and sale of natural gas, in whatever state or form
6. Importation and sale of refined petroleum products such as processed gas, naphtha, regular gasoline and other similar products of distillation, unleaded premium gasoline, aviation turbo jet fuel, aviation gas, kerosone, diesel fuel oil and similar fuel oils having more or less the same generating power, liquefied petroleum gas, asphalts, bunker fuel oil, etc.

Q2. How will the sale of diesel fuel, kerosene, and bunker fuel which form part of inventory as of midnight of June 30, 2005 and for which the old excise tax rates have been paid be treated? Will the seller be entitled to a refund of the difference between the old and the new excise tax rates?

A2. These products, for which excise taxes have been paid, will still be subject to VAT if sold on or after July 1, 2005. However, the taxpayer is entitled to claim a transitional input tax credit on these inventories which may be applied against his output tax liability. The sellers are not entitled to any refund for the difference between the old and the new excise tax rates, there being no basis for such a claim.

Q3 Is a refiner, dealer, importer and trader of petroleum products entitled to a transitional input tax credit?

A3 Yes. The taxpayer is allowed input tax on his inventory of goods, materials and supplies as of midnight of June 30, 2005, equivalent to 2% of the value of such inventory or the actual value-added-tax paid on such goods, materials and supplies, whichever is higher, which will be creditable against the output tax.

Q4 What should be the basis of the claim for transitional input tax credit?

A4 The value of the following inventories allowed for income tax purposes shall be the basis in the computation of the transitional input tax credit:

1. Goods purchased for resale in their present condition;
2. Materials purchased for further processing but which have not yet undergone processing;
3. Goods which have been manufactured by the taxpayer;
4. Goods in process for sale;
5. Goods and supplies for use in the course of the taxpayer's trade or business as a VAT-registered person.

However, in case the costs of such inventories were already claimed as expense for income tax purposes even if the goods are still in the possession of the taxpayer, the same shall no longer be entitled to such credit.

In order to claim the actual VAT paid on his purchases of inventories of goods as of June 30, 2005 for purposes of the transitional input tax credit, the same must be supported by VAT invoices. Inventories of goods purchased from non-VAT persons or purchases not supported by VAT invoices shall not be allowed to be used as basis for computing the transitional input tax credit even if these goods or articles are generally subject to the imposition of the VAT at the time these were purchased.

Q5 Is the entitlement for transitional input tax automatically available to taxpayers?

A5 No. The taxpayer has to file an inventory list as of June 30, 2005 of such goods or supplies with the Revenue District Office where he is registered not later than July 31, 2005. The said list must show the quantity, description, and the amount of such goods or supplies. Furthermore, the taxpayer has to make a journal entry in his books of accounts recognizing such credit by debiting the input tax account and

crediting the inventory account. In case the taxpayer fails to comply with these requirements, he will lose the benefit of such credit.
The said inventory list may be subject to verification by the BIR in order to determine the correctness of the claim for transitional input tax credit.

Q6 ***In case the taxpayer has the following activities beginning July 1, 2005: (a) Sales of goods and services that are already subject to VAT prior to July 1, 2005; (b) Sales of goods that will be subject to VAT beginning July 1, 2005 only; and (c) Sales of goods and services that will remain exempt from VAT during the effectivity of the new VAT law, are inventories as of June 30, 2005 that are attributable to all these transactions entitled to transitional input tax?***

A6 No. Only the inventories attributable to the transactions that will be subject to VAT beginning July 1, 2005 will be entitled to transitional input tax credit. Inventories attributable to the activities already subject to VAT prior to July 1, 2005 are no longer entitled to such transitional input tax since the actual input taxes thereon were already claimed by the taxpayer as credits in his VAT return. On the other hand, the inventories attributable to the sales or receipts which remained VAT-exempt shall not be entitled to transitional input tax pursuant to Section 110 (A)(3) of the Tax Code.

Q7 ***If the taxpayer has inventories of goods as of June 30, 2005 consisting of goods purchased without VAT components (e.g., gasoline, diesel, etc.) and those with VAT components (e.g., office supplies, repair materials, etc.), how will he compute the allowable transitional input tax?***

A7 The transitional input tax should be 2% of the total value of his allowable inventory (consisting of both goods with or without VAT components), or the actual VAT paid on the goods with VAT components, whichever is higher.

Illustrative Example:

Inventories on hand as of June 30, 2005:

Petroleum products with no VAT component (gasoline, diesel, kerosene, etc.)	P1,000,000.00
Office supplies with VAT component	110,000.00
Total cost of inventories	P1,110,000.00

Computation of Allowable Transitional Input Tax:

2% of total cost of inventories (P1,110,000.00 x 2%)	P 22,200.00
Actual VAT paid on inventories (P110,000.00 x 1/11)	P 10,000.00

Since 2% of the actual cost of inventories as of June 30, 2005 is higher than

the actual VAT paid on inventories with VAT component, the taxpayer is entitled to claim transitional input tax credit in the amount of P22,000.00.

Q8 ***Will transitional input tax credit be allowed on the following import transactions outstanding (described below) as of midnight of June 30, 2005?***

1. ***The imported petroleum products have been loaded in the ship and/or already in transit and per shipping arrangement with the foreign supplier, the title to the goods was already transferred to the importer.***

2. ***The imported petroleum products have already arrived at the Philippine territory but not yet covered by import entries.***

3. ***The imported petroleum products have been released from Bureau of Customs (BOC) custody but not yet covered by import entries and/or the corresponding taxes due thereon have not yet been paid in full.***

4. ***The imported petroleum products have been covered by import entries and the taxes have already been paid. However, the same are still in the customs premises.***

In all cases, however, the imported petroleum products were already recorded in the importer's books of accounts as part of his inventory as of June 30, 2005.

A8 In general, transitional input VAT is given to inventories, goods and materials on hand as of midnight of June 30, 2005, and the same were already recorded in the books of accounts as part of his inventory as of June 30, 2005. To be considered in one's inventory as of said time, the importation must be deemed terminated, as defined under Customs law, rules and regulations, importation is deemed terminated if and only if all the following conditions are present:

1. That the imported articles have already arrived at the Philippine territory and already in the custody of the BOC;

2. That the import entry declaration covering the shipment was already filed with the BOC;

3. That the applicable duties and internal revenue taxes thereon, if any, have been paid with the BOC on or before June 30, 2005; and

Since only the fourth scenario was able to satisfy the aforementioned conditions, only the said importations shall be entitled to the 2% transitional input tax credit. The importations covered by the first three (3) import transactions shall be subject to the provisions of the new VAT law.

Q9 ***A taxpayer purchased petroleum products from a locator inside the Subic Bay Freeport Zone. Since the transaction is considered an importation and not a***

domestic sale of fuel, the taxpayer has already filed the corresponding import entry with the BOC for such purchase and the duties and excise taxes due thereon were already paid as of June 30, 2005. However, actual removal of the imported fuel will be made in July 2005 when the new law imposing VAT on importation of all petroleum products is already in effect. Will such removal of the petroleum products from the premises of the Freeport Zone in July 2005 be subjected to VAT?

A9 The petroleum products are already "deemed imported" if all the following requisites have been satisfied:

1. The petroleum products are already within the Philippine territory;
2. The import entry declaration on said products was already filed by the importer; and
3. The corresponding taxes and duties due thereon were paid.

Since all the foregoing requisites are already met and, as such, the said petroleum products are already "deemed imported", the removal thereof from the Freeport Zone by the importer shall no longer be subject to the 10% VAT when physically removed from the premises of the Zone in July 2005.

Q10 Is the utilization of the transitional input tax credit subject to the 70% cap?

A10 Yes. Since the transitional input tax credit will be commingled with the current input tax credits to be generated beginning July 1, 2005, the same shall be subject to the 70% cap.

Pursuant to Revenue Regulations No. 14-05, for the period covering July 1, 2005 to December 31, 2005, the determination of VAT payable with a 70% limit on input tax creditable against the output tax shall be determined in the quarterly VAT return pertaining to the last quarter of tax year 2005. However, for a VAT-registered taxpayer whose tax year is other than the calendar year, the same shall be determined in the quarterly VAT return where VAT for the month of December 2005 is included.

Q11 Petroleum companies are already registered with the appropriate office in BIR either as purely VAT-exempt taxpayers, or as both VAT and VAT-exempt taxpayers considering that some are also engaged in transactions subject to VAT. Do they have to re-register with the BIR where they are presently registered?

A11 It depends. If the taxpayer's gross sales and/or receipts within any twelve-month period will not exceed P1,500,000.00, the taxpayer is not required to register as a VAT taxpayer even if the articles sold are generally subject to VAT. However, they have the option to register as VAT taxpayers. Nevertheless, if the gross sales/receipts of the taxpayer in any twelve month period exceeds P1,500,000.00,

the taxpayer must update his registration information with the BIR to reflect change from non-VAT status to VAT status.

For VAT-exempt taxpayers whose transactions will be subject to VAT only, they have to update their status as VAT taxpayers with the appropriate BIR office at any time before July 1, 2005. For those that will have mixed transactions (VAT-exempt and VATable) on or after July 1, 2005, the taxpayers are required to update their status as VAT and VAT-exempt persons for their VAT and VAT-exempt transactions, respectively. Registration as non-VAT taxpayer is necessary in order that printing of non-VAT invoices/receipts may be allowed by the BIR. In both cases, they must file Application for Registration Information Update-Replacement Copy of Certificate of Registration (BIR Form No. 1905) in order to change their respective tax registration status and surrender their old Certificates of Registration (BIR Form 2303). If the applications are in order, new Certificates of Registration shall be issued to the applicants.

Q12 Are importations of fuel by a shipping or air transportation company <u>EXCLUSIVELY</u> engaged in international operations automatically exempt from the imposition of VAT? What about his purchases of fuel from domestic suppliers? Will these purchases automatically qualify as zero-rated?

A12 Direct importations of fuel by a shipping or air transportation company that is exclusively engaged in international operations are considered as VAT exempt. However, the importer has to secure a VAT-exempt Authority to Release Goods (ATRIG) from the appropriate BIR office prior to the release of the imported fuel from the custody of the Bureau of Customs (BOC).

With respect to its domestic purchases of fuel, considering that the same are normally loaded directly to the international carrier/vessel, the sales thereof by its supplier are considered as automatically zero-rated; hence, there is no need to secure prior approval for zero-rating from the BIR. The seller of the fuel must issue a zero-rated VAT invoice in the name the international carrier/vessel and the same must be supported by Delivery Receipt or any equivalent document evidencing the actual loading of the fuel to the international carrier/vessel duly acknowledged by its captain or duly authorized representative.

Q13 How shall we treat importation/direct sales of petroleum products by/to shipping or air transportation companies that are engaged in both domestic and international operations?

A13 It depends on the nature of procurement of petroleum products by these transportation companies:

1. If the transportation company locally procures petroleum products on a per voyage/flight basis, such that the specific lifting/purchase of the fuel can

be directly identified to be used by the loading vessel/aircraft for outbound flight/voyage, the said sales are considered zero-rated. The seller of the fuel must issue a zero-rated VAT invoice in the name the carrier/vessel, and indicating therein the flight number, date, time and the destination of the said flight, and the same must be supported by Delivery Receipt or any equivalent document evidencing the actual loading of the fuel to the carrier/vessel duly acknowledged by its captain or duly authorized representative.

2. If the petroleum products are imported/sold in bulk and the destinations of the vessel/aircraft may be known only upon loading of the fuel to the departing vessel/aircraft, such bulk importation/direct sales by/to the shipping or air transportation company shall be subject to the 10% VAT. The concerned shipping or airline company can either utilize the VAT paid on its importation or local purchase of fuel as credit against its output tax liabilities, or claim for tax refund/credit on such VAT payments that are attributable to its zero-rated sales pursuant to Section 112 of the Tax Code.

3. If the shipping or air transportation company is maintaining dedicated tanks for the storage of fuel to be used exclusively for international voyages/flights, and the imported/locally purchased petroleum products will be delivered directly to these storage tanks upon release from BOC custody/supplier oil company, the importation of these fuel by the transportation company shall be exempt from VAT while its local purchases will be subject to VAT zero rating. In both cases, however, the maintenance of these storage tanks shall be subject to prior approval and regular monitoring by the BIR. Otherwise, the rule on the immediately preceding paragraph will apply.

Q14 What will be the treatment of sales of petroleum products by an oil company to a person who will, in turn, sell the same to a shipping or air transportation company engaged in international operations?

A14 The said sales cannot qualify as zero-rated sales because these are not sold directly to the shipping or air transportation company engaged in international operations. The selling oil company must bill the 10% VAT to the oil dealer-trader. The said oil dealer-trader can treat his sales to the shipping or air transportation company as zero-rated if it can be clearly proven that the purchased products will be used in its international operations; and the VAT passed on to him can be claimed as input tax credit against his other output tax liability, or he can apply for a tax refund/credit for the said input tax that are considered attributable to his said zero-rated sales.

Q15 There are cases wherein an international carrier/vessel that is destined to a foreign port will initially depart from a domestic port but will stop at another

domestic port to load/unload passengers and/or cargoes prior to its departure to a foreign port. Since it is a duly registered international carrier/vessel, are consumptions of fuels from the first leg of the trip (from the domestic port to another domestic port) also entitled to the benefit of zero-rating?

A15 No. The benefit of zero-rating on sale of fuel is limited only to that pertaining to or attributable to the transport of goods or passengers from a port in the Philippines directly to the foreign port without docking or stopping at any port in the Philippines. Accordingly, the portion of fuel consumed from the first leg of the trip is subject to the 10% VAT. For this purpose, the allocation should be made according to the following formula:

$$\text{Total cost of fuel allocable to Domestic route} = \frac{\text{Total mileage of first leg of trip}}{\text{Total mileage of entire trip}}$$

Provided, however, the seller of the fuel shall bill the 10% VAT, and the buyer may claim for a tax refund/credit.

Q16 If the country of registry of the international vessel/airline purchasing the petroleum product does not grant similar tax treatment to Philippine-registered carriers, are we still going to treat the sale of these products as zero-rated for VAT purposes?

A16 Yes. Unlike the provision of Section 135 of the Tax Code with respect to the imposition of excise taxes on petroleum products, the provision of the new VAT law, treating the direct sales of petroleum products to shipping/air transportation companies engaged in international operations as zero- rated, did not make any distinction. As such, the rule on reciprocity on these sales transactions will not apply.

Q17 For sales of petroleum products to the government or any of its political subdivisions, instrumentalities or agencies, including government-owned or controlled corporations (GOCCs) that are subject to the withholding of 5% final VAT, what amount of VAT should be indicated on the face of the sales invoice—will it be 10% or 5%? How should the actual input tax credits attributable to such sales be taken up in the books of the seller since the same are no longer creditable against his output tax liability?

A17 The amount of VAT that should be billed separately in the VAT invoice/receipts should be 10% and not 5%. Consequently, the concerned buyer who may also be a VAT-registered person, as in the case of a GOCC, can claim the passed-on VAT of 10% against his output tax liability.

The 5% final VAT withholding rate represents the seller's net VAT payable while the remaining 5% effectively represents that standard input tax that can be claimed by the seller for any vatable sale of goods and services to government or any of its political subdivisions, instrumentalities or agencies, including GOCCs. This

standard input tax is in lieu of the actual input tax directly attributable or ratably apportioned to such vatable sales. In case the actual input tax exceeds 5% of the output tax, the excess can be treated by the seller as part of its cost. However, if the actual input tax is less than 5% of the output tax, the difference must be treated by the seller as taxable income.

Q18 ***There may be cases wherein purchases of petroleum products may be made by persons with a representation that such purchases are for the account of and official use by the government or any of its political subdivisions, instrumentalities or agencies, including government-owned or controlled corporations (GOCCs). This may be resorted to in order to take advantage of the 5% standard input tax. Are sales to such persons that are invoiced in the name of any government office automatically qualified under the 5% final VAT withholding?***

A18 No. Only purchases by any government office that are covered by Purchase Orders duly signed by authorized official shall be subject to the 5% final VAT withholding. Accordingly, purchases by any person not covered by the prescribed Purchase Order, even though reimbursable by the concerned government office, shall be subject to the regular treatment of allowable input tax credits.

Q19 ***In computing the VAT liability of a taxpayer for purposes of filing his Monthly VAT Declaration (BIR Form 2550M), are input taxes available for credit against output tax during the taxable month also covered by the 70% cap?***

A19 No. The VAT law prescribed the 70% cap for allowable input tax credit on the quarterly basis only. However, the taxpayer is not precluded from applying the 70% cap in the computation of his monthly VAT liabilities if he desires, in order to cushion off the impact of substantial cash outflow in the payment of his quarterly VAT liabilities.

For the period covering July 1, 2005 to December 31, 2005, the determination of the VAT liability with a 70% limit on input tax shall be determined in the quarterly VAT return pertaining to the last quarter of tax year 2004. However, for a VAT-registered taxpayer whose tax year is other than the calendar year, the same shall be determined in the quarterly VAT return where VAT for the month of December 2005 is included.

Q20 ***What will be the tax treatment of imported petroleum products stored in BIR-bonded storage tanks when sold to any person not enjoying tax exemption? Will it be treated as "deemed" importation or part of the taxable domestic sale of the seller? In case it is considered as "deemed" importation, who will be liable for the payment of excise and value-added taxes due thereon?***

A20 When imported petroleum products stored in BIR-bonded storage tanks are sold to any person not enjoying tax exemption, the importer shall first pay the

corresponding duties and taxes thereon to the BOC. When the importer sells the tax paid petroleum products, the said sale shall be subject to 10% VAT.

Q21 What will be the tax treatment of sales of fuel to foreign embassies and their personnel? Can the benefit of outright entitlement to VAT exemption/zero-rating be applied at point of sale?

A21 Under the principle of reciprocity, the sale of fuel to qualified foreign embassies, qualified embassy personnel, and qualified dependents of the latter are considered effectively zero-rated for VAT purposes provided that the Department of Foreign Affairs (DFA) issued favorable endorsement to the BIR that the government of the concerned foreign embassy allows similar exemption to the Philippine Embassy and its qualified embassy personnel on their purchase of petroleum products in that foreign country.

Since the sale of fuel to qualified foreign embassies as well as qualified embassy personnel and his dependents is treated as merely effectively zero-rated for VAT purposes, the seller thereof has to secure prior approval for zero-rating from the appropriate BIR office, in accordance with the existing rules and regulations.

Q22 In case the unutilized input tax credits are continuously accumulating since the net value-added is less than 30%, can the taxpayer claim such accumulated input tax credits as a deductible expense for income tax purposes or can he file an application for VAT refund/credit for the recovery of the same?

A22 Unutilized input tax credits cannot be subject to a claim for VAT credit/refund unless the same are attributable to zero-rated sales, or where the company has been dissolved/retired from business. For going concerns, other than those whose transactions are subject to zero-rate, the said excess input tax credits can only be carried over to the succeeding month/quarter. Furthermore, the said excess credits cannot be claimed as deduction for income tax purposes.

Q23 What is the treatment of sales of petroleum products to enterprises registered with Subic Bay Metropolitan Authority (SBMA), Philippine Export Zone Authority (PEZA), and Clark Development Corporation (CDC), and such other economic zones under the Bases Conversion Act?

A23 Sales of petroleum products to PEZA-registered enterprise, SBMA-registered enterprise, or CDC-registered enterprise, regardless of whether the same will be used as raw materials or supplies, shall be considered as effectively zero-rated provided that the buyer can present to the seller a valid and effective Certificate of VAT Zero-Rating pursuant to a Joint Order between the BIR and PEZA/SBMA/CDC. The seller has to issue zero-rated invoices for such sales; and the copy of the said Certificate shall form part of the records to be maintained by the seller in support of his zero-rated transaction. Said Certificate of VAT Zero-Rating shall be issued only to enterprises that are registered with PEZA/SBMA/CDC who actually export at least seventy percent (70%) of its

product for a calendar year, and shall be valid for a period of one year from the date of issuance thereof.

In case the PEZA-registered enterprise has submitted erroneous information to PEZA that was used as basis in the issuance of the Certificate of VAT Zero-Rating, PEZA shall provide full assistance to the BIR in auditing the transactions of the said enterprise. In the event that it can be proven that the enterprise has indeed committed a misrepresentation, the enterprise shall be made liable to pay for the VAT that would otherwise have been due on the said transactions, including all the applicable incremental penalties thereon.

Sale of petroleum products to any other enterprise shall be imposed a 10% VAT.

Q24 If the PEZA-registered or SBMA-registered enterprise which purchased the petroleum product subsequently sell the same to another PEZA-registered or SBMA-registered person, what will be the treatment of the said sale? Does it need another application for effective VAT zero-rating?

A24 Since both the seller and the buyer are registered with PEZA/SBMA, the said subsequent sale of petroleum products are considered VAT-exempt and not VAT zero-rated. However, the seller is entitled to VAT exemption if both are complying with the terms and conditions set forth by PEZA/SBMA under its rules and regulations; and the buyer is included in the list of qualified purchasers contained in the Joint Order between BIR and PEZA/SBMA. Accordingly, there is no need to secure prior approval for VAT exemption for the said transaction.

Q25 In case petroleum products that are stored in Subic Bay Freeport Zone will be delivered to the storage tanks located at the Clark Economic Zone without any transfer of ownership considering that the consignor at Subic Freeport and the consignee at Clark Economic Zone is one and the same, is the said transfer subject to the imposition of VAT?

A25 If the petroleum products remain under Customs's control as with any Custom's suspense regimes e.g. warehousing, transhipments, the same does not give rise to a transaction subject to VAT. It is when the petroleum products are withdrawn from Custom's control as when an import entry is filed that the petroleum products becomes subject to VAT.

Q26 How will sales of petroleum products subject to 5% final VAT withholding be presented in the Quarterly VAT Returns/Monthly VAT Declarations?

A26 The sales of these products must be indicated as part of the sales subject to the 10% output tax. However, the amount of input tax attributable to the said sales should be limited to the 5% standard input tax. The net VAT payable subject to final VAT withholding shall be indicated as a separate item in the VAT return/declaration and should not be lumped with the net VAT payable amount.

Q27 ***In case the oil companies have already paid the required registration fee as non-VAT taxpayer for their respective head office and branches, will they have to pay another registration fee as VAT taxpayers before July 1, 2005?***

A27 No. Since the required registration fee is imposed on the entity regardless of the line of business and considering that the said fee as a non-VAT taxpayer was already paid, the taxpayer shall no longer be required to pay additional registration fee as VAT taxpayer for their respective head office and each of their branches, if any.

Q28 ***When will the purchaser-government office withhold and remit the 5% final VAT withholding on its purchases of petroleum products?***

A28 The withholding of the 5% final VAT shall be made when the payments of purchases of petroleum products were actually or constructively made. On the other hand, the remittance of the 5% final VAT withheld shall be made within ten (10) days following the end of the month when the withholding was made.

Q29 ***If the sales of petroleum products by the oil company to a government office took place prior to July 1, 2005 but the payments for such purchases by the government office were made after the effectivity of the new VAT law, will such payments be subject to the 5% final VAT withholding?***

A29 No. Only VATable transactions that took place on or after July 1, 2005 will be subject to the prescribed final withholding of the VAT of 5%. All previous sale are subject to the withholding tax rate under the old law, e.g. 3% for goods.

Q30 ***An oil company delivered petroleum products to its customers before midnight of June 30, 2005 and the same are covered by Delivery Receipts issued on the said date. As a fully computerized taxpayer, its sales invoices covering the said transactions are computer-generated. However, the taxpayer's computer program was designed in a manner that all sales transactions after the 8:00 PM system cut-off will be dated the following day, July 1, 2005, when the new VAT law is already in effect. Are sales made from 8:01 PM up to 12:00 midnight of June 30, 2005 subject to the 10% VAT since the system-generated VAT invoices are dated July 1, 2005?***

A30 These sales shall be treated as sales on June 30, 2005; hence, are not yet subject to VAT. Provided, the delivery receipt were duly issued, and receipt of which is indicated therein before midnight of June 30, 2005..

Q31 ***In the case of gasoline dealers, what should be the amount to be set as the pump prices of gasoline products being sold in the gasoline stations?***

A31 The pump prices of all gasoline products being sold in the gasoline stations must be the total billable amount, including the 10% VAT. This will avoid confusion

on the part of the customers as to the correct volume of fuel being purchased, and the possible irritants that may ensue between the gasoline stations and the customers if the set pump prices will be exclusive of the VAT.

Q32 What should be indicated by the gasoline stations as the amount of sales in the sales invoices?

A32 The sales invoices to be issued shall separately indicate the 10% VAT. The 10% VAT on the sale is computed by simply multiplying the total pump price of the fuel sold by 1/11.

Q33 Jeepney drivers are given special discounts on purchase of diesel fuel. How will the gasoline station reflect these discounts in the sales invoices to be issued?

A33 The sales discounts given to authorized jeepney drivers must be deducted first from the pump price of diesel fuel before computing the VAT. The said discount must be clearly shown in the sales invoices and not in any other document. If these discounts are not indicated in the sales invoices at the time of sale, the gross amount of sales, including the discounts, will be the basis in the computation of the 10% output tax.

Q34 Most of the gasoline dealers/stations are manually issuing sales invoices/receipts. Due to the enormous volume of invoices/receipts to be issued and the long queues of customers that are always in a hurry to be served and get out of the station after filling up, the gasoline dealers may have difficulty in complying with the requirement on the separate indication of the VAT in the sales invoices/official receipts to be issued. Can this requirement be dispensed with for non-VAT registered customers?

A34 No. The requirement on the separate billing of the VAT in the sales invoices/official receipts is expressly provided for in the law and the implementing revenue regulations. What the gasoline dealer may have to do, in order to facilitate the computation of the VAT to be indicated in the sales invoices/official receipts, is to prepare a table of VAT due, per fuel type, based on the regular purchases of customers (e.g., for diesel fuel, a table for purchases worth P50.00, P100.00, P200.00, etc.) This may ease the burden of the sales person or cashier issuing the sales invoice/official receipt in the determination of the correct VAT for each sale transaction.

Q35 The VAT law and implementing regulations prescribe that sales invoices/receipts issued to VAT-registered customers in the amount of P1,000.00 or more must reflect additional information such as the name of the customer, business style, if any, and the TIN of the purchaser. If the purchaser will not voluntarily disclose the information that he is a VAT-registered person, will the gasoline station be liable for non-indication of the required information?

A35 If the purchaser is a regular customer, the gasoline dealer has no valid excuse for not knowing the status of its customer (whether it is a VAT or non-VAT registered person). As such, it shall be liable for any omission of the prescribed information in the sales invoices/official receipts to be issued. However, for non-regular customers who did not disclose their status, the gasoline dealer will not be held liable for such omissions. Sales invoices/official receipts issued to VAT-registered persons that did not reflect the prescribed additional information will not be allowed as sources of input tax credits on the part of the VAT-registered purchaser.

Q36 The new VAT law will take effect on July 1, 2005. If the oil company fails to change their registration status with the BIR from non-VAT to VAT-registered person as of the last working hour of June 30, 2005, what will be the consequences? Are all gasoline dealers required to issue VAT invoices on their sales of petroleum products beginning July 1, 2005? If they fail to issue VAT invoices, what will be the implications?

A36 If the annual gross sales of the gasoline dealer during the immediately preceding twelve(12)-month period exceed P1,500,000.00, gasoline dealers are mandated to register as a VAT person. If he fails to do so, all his sales/receipts beginning July 1, 2005 shall be subject to 10% output tax without the benefit of any input tax credit on his purchases of goods and service from his VAT-registered suppliers.

All gasoline dealers who are registered as VAT taxpayers as of the beginning of July 1, 2005 are required to issue VAT sales invoices/official receipts. If they fail to issue such invoices/receipts, they are nevertheless subject to the 10% output tax but their VAT-registered customers cannot claim any input tax credits on such sales.

Q37 In a single sale to a customer, the taxpayer sold VAT and non-VAT products. Can sales of all these products be covered in one VAT sales invoice/official receipts?

A37 The taxpayer having taxable, zero-rated, and exempt transactions has the option to either use separate invoices or receipts for the taxable, exempt, or zero-rated components of the sale, or issue just one sales invoice/official receipts. In case he opts to use only one invoice/receipt for all these sales, such invoice or receipt must clearly show the breakdown of the sale price among taxable, exempt and zero-rated components, and the calculation of the VAT on the taxable portion should be clearly indicated or shown on the invoice/receipt. For this purpose, the printed invoice/receipt must reflect the vatable, zero-rated and exempt sales, either in separate columns or separate rows.

Q38 ***Can the taxpayer who changed status from non-VAT to VAT-registered person continue to use his non-VAT invoices and official receipts that are unutilized as of June 30, 2005 for vatable transactions beginning July 1, 2005?***

A38 Yes. They can issue the unused non-VAT sales invoices/official receipts for their taxable transactions beginning July 1, 2005 subject to the following conditions:

1. Submission to the BIR on or before July 31, 2005 of an inventory of unsused invoices or receipts as of June 30, 2005 indicating therein the number of booklets and their corresponding serial numbers;

2. Stamping of the phrase "**VAT_Registered as of July 1, 2005"** on copies of sales invoices/receipts;

3. The use of these previously printed invoices/receipts is allowable only until December 31, 2005; and all unused invoices/receipts as of the said cut-off date must be surrendered to the concerned BIR office for necessary cancellation.

Q39 Is compliance with Section 4.114-3 of RR No. 14-2005 on the Summary Lists of Sales and Purchases, immediate?

A39 A VAT-registered refiner, importer, trader, or dealer of petroleum products is required to submit Summary List of Sales and Purchases in the following cases:

1. Summary List of Sales, if the total quarterly sales/receipts, excluding VAT, is more than P2,500,000.00; and

2. Summary List of Purchases, if the total purchases of goods and services, including importation, excluding VAT, exceeds P1,000,000.00.

For purposes of computing the above, all sales or purchases that are subject to VAT, exempt from VAT, or zero-rated must be totaled.

For meritorious reasons, as when a gasoline dealer's computer system / accounting system has still to be adjusted to provide the reports required, gasoline dealers may apply for an extension of time to submit, stating when they can comply.

However, requests for an extension for Summary Lists of Sales and Purchases by oil companies other than gasoline dealers will not be allowed. The data in these Lists will be used to verify the accuracy of the VAT declarations of gasoline dealers.

This Summary List must follow the following structure:

The Quarterly Summary List of Sales to Regular Buyers/Customers and

Casual Buyers/Customers and Output Tax shall reflect the following:

(1) BIR-registered name of the buyer who is engaged in business/exercise of profession;
(2) TIN of the buyer (Only for sales that are subject to VAT);
(3) Exempt Sales;
(4) Zero-rated Sales;
(5) Sales Subject to VAT (exclusive of VAT);
(6) Sales Subject to Final VAT Withheld; and
(7) Output Tax (VAT on sales subject to 10%).

The Quarterly Summary List of Local Purchases and Input Tax. –

(1) BIR-registered name of the seller/supplier/service-provider;
(2) Address of seller/supplier/service-provided;
(3) TIN of the seller;
(4) Exempt Purchases;
(5) Zero-rated Purchases;
(6) (i)Purchases Subject to VAT (exclusive of VAT) — on services;
(ii)Purchases Subject to VAT (exclusive of VAT) — on capital goods; and
(iii)Purchases Subject to VAT (exclusive of VAT) — on goods other than capital goods
(iv) Purchases Subject to Final VAT Withheld
(7) Creditable Input Tax; and
(8) Non-Creditable Input Tax

Q40 How, where and when are these Summary Lists of Sales and Purchases required to be submitted to the BIR?

A40 For large taxpayers and those enrolled under the Electronic Filing and Payment System (EFPS), they are strictly required to electronically submit the summary list to the BIR under its e-Submission facility. For other taxpayers, however, the summary list shall conform to the electronic format prescribed in a separate Revenue Memorandum Circular. In both cases, the names of customers and suppliers presented in the schedules shall be alphabetically arranged.

These summary lists must be submitted to the Revenue District Office having jurisdiction over the taxpayer's principal place of business.

The summary lists of sales and purchases must be prepared on a monthly basis but submissions thereof are made quarterly to the concerned BIR office. For taxpayers under the Large Taxpayers Service and those availing of the EFPS facility, the list shall be submitted on or before the 30th day of the month following the end of the taxable quarter. For all other taxpayers, submission of the list shall be on or before the 25th day following the close of the quarter.

Q41 In case the VAT-registered oil company has mixed transactions (i.e., vatable, exempt, and zero-rated), is the requirement for the submission of the summary list of sales and purchases limited to transactions subject to VAT?

A41 No. The VAT-registered oil company is still required to submit the information for his exempt and zero-rated sales/purchases.

Q42 If the taxpayer fails to submit the prescribed summary lists, or submits incomplete/erroneous information, what are the applicable penalties therefor?

A42 The concerned oil company shall be liable for the following penalties:

For failure to submit the prescribed summary list

1. Administrative penalty of P1,000.00 is imposed for each failure, but not exceeding P25,000.00 during a taxable year, if such failure is not due to reasonable cause and there is no willful neglect.

2. Criminal penalty imposed under Section 256 of the Tax Code upon conviction of the taxpayer, in addition to the above administrative penalty.

For failure to indicate the TIN of the customer/supplier

1. The records of the buyer or seller or both may be subjected to audit.

2. If the TIN of the supplier provided is erroneous, the input VAT related thereto may not be credited against the taxpayers output VAT liability.

For failure to submit the lists in the prescribed electronic format

1. Administrative penalty of P1,000.00 is imposed for each failure, but not exceeding P25,000.00 during the taxable year.

2. The records of the taxpayer shall be audited for VAT purposes.

Q43 In case the taxpayer has some doubts on the accuracy of the TINs supplied by his customers or suppliers, how can he validate the same against the BIR records?

A43 Validation of the TINs of his customers or suppliers can be made by accessing the BIR website (www.bir.gov.ph). He may also request for a confirmation from the BIR thru the Revenue District Office having jurisdiction over the principal place of business of his customer/supplier or the TIN Verification Unit, Information Systems Group, BIR National Office, Diliman, Quezon City, tel. No. 928-4093/928-9635/981-7031, or the Contact Center at telephone number 981-8888.

All internal revenue officers and employees are hereby enjoined to give this Circular as wide publicity as possible.

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