REPUBLIKA NG PILINAS
KAGAWARAN NG PANANALAPI
KAWANIHAN NG RENTAS INTERNAS

May 29, 2006

REVENUE MEMORANDUM CIRCULAR NO. 31-2006

SUBJECT : Value Added Tax on the Construction or Renovation of Official Buildings or Properties of the United States of America Embassy

TO : All Revenue Officers and Others Concerned

SECTION 1. Purpose – This Circular is issued to prescribe the guidelines for the grant of value-added tax (VAT) exemption on the purchases of goods and services associated with the construction or renovation of the diplomatic properties of the Embassy of the United States of America in the Philippines (U.S. Embassy)

SECTION 2. Coverage – This Circular covers VAT imposed on the purchase of goods, services or materials locally purchased on behalf of the U.S. Embassy and its constituent posts[1] in the Philippines in connection with the U.S. Embassy's construction/renovation projects in Manila, which are initially contemplated to consist of the following:

1. Consular Annex Major Rehabilitation Project
2. Chancery Rehabilitation Project
3. New Construction on Chancery Compound

The Consular Annex Major Rehabilitation Project is a repair project involving the Consular Annex facility of the U.S. Embassy and is aimed to address vital fire and safety issues present in the existing structure.

The Chancery Rehabilitation Project, which will take place in the next few years, plans to address the seismic deterioration of the Chancery structures and will include upgrades to the building's electrical, mechanical and life safety systems.

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[1] **Constituent posts** refers to the Cebu Office

The New Construction on Chancery Compound involves the U.S. Embassy's plan to construct five new structures on the Chancery and Seafront Compounds. These new facilities will include two annex buildings and a Marine Security Guard Residence on the Chancery compound, and a Veteran's Administration annex and USAID warehouse on the Seafront compound. The cost of this major project is currently estimated at well over millions and could be initiated as early as 2007.

SECTION 3. Construction Agent – For the U.S. Embassy's pending major construction/renovation projects, the USA Department of State will select a private American firm to serve as its **Construction Agent**.

This Bureau shall recognize the construction agent, as chosen by the U.S Department of State, upon receipt of a Note Verbale from the U.S. Embassy in the Philippines, duly indorsed by the DFA, with the information as to the name of such entity and accompanied with a copy of:

(1) the contract establishing the agency relationship between the U.S. Embassy in the Philippines and the American firm, and

(2) the Special Power of Attorney (SPA) executed by the U.S. Embassy in favor of such American firm. The SPA shall specifically state the name of the particular project for which the American firm is granted the power to act as a construction agent and the fact and extent to which such construction agent is authorized to make purchases for the U.S. Embassy project. The name of the American firm and a copy of its SPA shall be duly circularized for the information of all Bureau officials and personnel concerned.

The Construction Agent, as a separate entity, and as such, shall be taxed in accordance with the provisions of the National Internal Revenue Code or relevant tax treaty, as applicable.

SECTION 4. Subcontractors or vendors – This Bureau shall only recognize subcontractors or vendors for the project, based on a notification made by the U.S. Embassy through a Note Verbale, favorably indorsed by the DFA, prior to the beginning of the projects.

Additional subcontractors' and vendors' names should also be submitted to this Bureau through a Note Verbale, following the same procedure described above.

SECTION 5. VAT Zero-rating - To the extent that the construction agent is authorized to act for and on behalf of the U.S. Embassy, the construction agent shall be allowed to make local purchases of supplies, goods and services, for and on behalf of the U.S. Embassy, and avail of VAT exemption on the purchases of the embassy, at the point of sale, on the strength of the VAT Exemption Certificate issued by this Bureau to the U.S. Embassy.

The sale to the construction agent, acting on behalf of the U.S. Embassy, of *goods* for the specific construction/renovation projects covered by this Circular shall be considered as zero-rated transactions, pursuant to Sec. 4.106-5(a)(5)[2] of Revenue Regulations No. 16-2005.

The sale to the construction agent, acting on behalf of the U.S. Embassy, of *services* for the specific construction/renovation projects covered by this Circular shall be considered as zero-rated transactions, pursuant to Section 4.108-5(b)(2)[3].

This Circular shall serve as a sufficient basis to entitle such supplier of goods, property or services to the benefit of the zero percent (0%) VAT for sales made to the U.S. Embassy in relation to the subject construction/renovation projects, and shall serve as sufficient compliance to the requirement for prior approval of zero-rating imposed by Revenue Regulations No. 16-2005 effective as of the date of the issuance of this Circular.

SECTION 6. Invoice / Receipt – Suppliers of the U.S. Embassy for the projects covered by this Circular must issue a VAT invoice / receipt for each sale, which shall contain the following information:

(a) Name of the seller and a statement that such seller is a VAT-registered person, followed by his Tax Identification Number (TIN)

(b) Name and address of the Construction Agent, together with the words, *"for the account of the U.S. Embassy in the Philippines"*, as in the following: *"X Co., for the account of the U.S. Embassy in the Philippines"*

(c) Current and valid VAT Exemption Certificate Number of the U.S. Embassy in the Philippines

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[2] Transactions considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, and other special laws.

[3] Services other than processing, manufacturing or repacking rendered to a person engaged in business conducted outside the Philippines or to a non-resident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP.

(d) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT, *Provided*, that –

i. The amount of tax shall be shown as a separate item in the invoice or receipt;

ii. The term "ZERO RATED SALE" is written or printed prominently on the face of the invoice/receipt

(e) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service.

Non-VAT Suppliers from whom purchases pursuant to this RMC were made shall, on the other hand, issue a non-VAT invoice / receipt.

In such a case, there is a percentage tax, which shall form part of the cost of the goods or services sold to the embassy

SECTION 7. Review of Invoices – As a method of controlling and protecting the U.S. Embassy's eligibility for tax relief privileges, a representative from the U.S. Embassy shall review/validate the invoices for such purchases and annotate the U.S. Embassy's certification that the purchases are in fact associated with the completion of the construction/renovation project.

Photocopies of invoices approved by the U.S. Embassy shall also be submitted to Revenue District Office No. 50, Pasay City, of this Bureau, for verification, on a monthly or quarterly basis.

SECTION 8. Verification of Exemption – In the event a subcontractor or vendor does not honor the VAT exemption of the Embassy through its construction agent at the point of sale, the Chief of International Tax Affairs Division will render assistance to the U.S. Embassy and its agent in solving such matters and issue a certification, signed by the Assistant Commissioner of the Legal Service, this Bureau, to confirm the exemption. (See Annex A)

SECTION 9. Imported Materials – Materials imported for use in the construction or renovation of the Embassy's facilities in the Philippines shall be consigned to the U.S. Embassy and not to its construction agent.

SECTION 10. Repealing Clause – Pertinent provisions of Revenue Memorandum Order No. 22-2004 and of other relevant revenue issuances which are inconsistent with the provisions of this Circular are hereby revised or amended accordingly, but only insofar as they apply to the subject matter of this Circular.

SECTION 11. Effectivity – This Circular shall take effect immediately.

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