REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

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REVENUE MEMORANDUM CIRCULAR NO. 39-2018

SUBJECT: Reiterates the Imposition of Value-Added Tax on Goods Disposed of or Existing as of the Date of Change in or Cessation of Status of a Person as VAT-Registered Taxpayer Pursuant to Sec. 4.106-8 of Revenue Regulations (RR) No. 16-2005, Implementing Sec. 106(C) of the Tax Code of 1997, as further amended by R.A. 10963, Otherwise Known as the "Tax Reform for Acceleration and Inclusion" or the TRAIN Law

TO : All Internal Revenue Officers and Others Concerned

This Circular is issued to reiterate and clarify the taxability of goods or properties originally intended for sale or use in business, including capital goods, disposed of or existing as of the date of change in or cessation of status of a person as VAT-registered taxpayer pursuant to Sec. 4.106-8 of RR No. 16-2005, implementing Sec. 106(C) of the Tax Code of 1997, as further amended by R.A. 10963, otherwise known as the "Tax Reform for Acceleration and Inclusion" or the TRAIN Law.

It has been observed that taxpayers who changed their status from VAT to Non-VAT due to the increase in the VAT threshold of P3,000,000.00 as provided for under Section 109(BB) of the TRAIN Law, amending the Tax Code of 1997, are submitting only the *"Application for Registration Information Update"* (BIR Form 1905) without filing the quarterly VAT returns and paying the tax due on the inventories existing as of the date of change of status.

The pertinent provision of Sec. 106(C) of the Tax Code of 1997, as implemented by Sec. 4.106-8 of RR No. 16-2005, states as follows:

> *"(C) Changes in or Cessation of Status of a VAT-registered Person – The tax imposed in Subsection (A) of this Section shall also apply to goods disposed of or existing as of a certain date if under circumstances to be prescribed in rules and regulations to be promulgated by the Secretary of Finance, upon the recommendation of the Commissioner, the status of a person as a VAT-registered person changes or is terminated."*

Sec. 4.106-8 of Revenue Regulations No. 16-2005:

> *"SEC. 4.106-8. Change or Cessation of Status as VAT-registered Person. –*
>
> *(a) Subject to output tax*
>
> *The VAT provided for in Sec. 106 of the Tax Code shall apply to goods or properties originally intended for sale or use in business, and capital goods which are existing as of the occurrence of the following:*

(1) Change of business activity from VAT taxable status to VAT-exempt status. An example is a VAT-registered person engaged in a taxable activity like wholesaler or retailer who decides to discontinue such activity and engages instead on life insurance business or any other business not subject to VAT.

(2) Approval of a request for cancellation of registration due to reversion to exempt status.

(3) Approval of a request for cancellation of registration due to a desire to revert to exempt status after the lapse of three (3) consecutive years from the time of registration by a person who voluntarily registered despite being exempt under Sec. 109(2) of the Tax Code.

(4) Approval of a request for cancellation of registration of one who commenced business with the expectation of gross sales or receipts exceeding P1,500,000.00 (now P3,000,000.00) but who failed to exceed this amount during the first twelve months of operation. " (emphasis supplied)

Pursuant to the afore-quoted provisions, it is hereby emphasized that goods or properties originally intended for sale or use in business, including capital goods, disposed of or existing as of the date of change of status of a taxpayer from VAT to Non-VAT are subject to VAT imposed under Section 106(A) of the Tax Code of 1997, as amended. Hence, taxpayers are required to file the quarterly VAT return covering the period when the change of status transpired and pay the corresponding VAT due thereon.

All revenue officials concerned are enjoined to give this Circular as wide a publicity as possible.

CAESAR R. DULAY
Commissioner of Internal Revenue

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