REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

July 06, 2007

REVENUE MEMORANDUM CIRCULAR NO. 44 - 2007

SUBJECT : Clarifying the Taxability of Agricultural Suppliers for Withholding Tax Purposes In Respect to Sales Made to Top 10,000 Corporations And to the Government In Relation to Revenue Regulations No. 3-2004 Which Suspended the Implementation of Withholding Tax on Income Payments Made to Suppliers of Agricultural Products under Section 2.57.2(S) of Revenue Regulations (RR) No. 2-98, as Amended.

TO : All Internal Revenue Officers and Others Concerned.

BACKGROUND:

In Year 2003, certain amendatory provisions were introduced by Revenue Regulations 17-2003 to Revenue Regulations No. 2-98, which impacted the taxability of agricultural suppliers for withholding tax purposes. These amendatory provisions are as follows:

(1) Sec. 2.57.2(M) which imposed withholding tax at rates of 1% (for goods) and 2% (for services) on income payments made by the top ten thousand (10,000) private corporations to their local/resident suppliers of goods and local/resident supplier of services other than those covered by other rates of withholding tax;

(2) Sec. 2.57.2(N) (*as subsequently amended by RR 30-2003)* which imposed withholding tax at rates of 1% (for goods) and 2% (for services) on income payments made by the government to its local/resident supplier of goods and local/resident supplier of services other than those covered by other rates of withholding tax; and

(3) Sec. 2.57.2(S) *(as subsequently amended by RR 1-2004)* which imposed withholding tax at rate of 1% on income payments made to agricultural suppliers by hotels, restaurants, resorts, caterers, food processors, canneries,

supermarkets, livestock, poultry, fish and marine products dealers, hardwares, factories, furniture shops and all other establishments.

Consequently, in Year 2004, RR 3-2004 was issued suspending the implementation of the provision under Sec. 2.57.2(S) which is the general proviso relating to the imposition of withholding tax on income payments made to agricultural suppliers. Apparently, on the ground of such suspension made, agricultural suppliers desisted from being withheld tax even if their income payments are derived from payors who happen to be covered by Sec. 2.57.2(M) and (N) respectively, citing the suspension made by RR3-2004 as their ground for exemption.

Thus, this Circular is being issued in order to clarify the position of the Bureau on this issue.

A. Taxability of Agricultural Suppliers <u>Prior to RR 3-2004</u>

1. **On income payments made by top 10,000 private corporations under Sec.2.57.2(M) of RR 2-98 as amended** - Income payments received by agricultural suppliers from these taxpayers are subject to withholding tax but only at the rate provided for by Sec. 2.57.2(S) which is 1%. The withholding tax rates under Sec.2.57.2(M) shall only apply if there is no other tax rates provided in the Regulations which is not the case for agricultural suppliers.

2. **On income payments made by government under Sec. 2.57.2(N) of RR 2-98, as amended** - Income payments received by agricultural suppliers from these taxpayers are subject to withholding tax but only at the rate of 1% for the same reason above cited.

3. **On income payments made by hotels, restaurants, resorts, caterers, food processors, canneries, supermarkets, livestock, poultry, fish and marine products dealers, hardwares, factories, furniture shops and all other establishments under Sec. 2.57.2(S) of RR 2-98 as amended by RR 1-2004 but suspended by RR 3-2004** - Income payments received by agricultural suppliers from the aforementioned payors not otherwise covered by the other provisions of the withholding tax regulations are subject to withholding tax at the rate of 1%.

Example : Mr. Rebullido, is a supplier of agricultural products to the following:

(1) X Supermarket which is included in the top 10,000 private corporations;
(2) City Government of Quezon City; and

(3) Y Mini-Grocery Store which is not included in the top 10,000 private corporations.

Income payments to be received by Mr. Rebullido from the above clients are subject to withholding tax but only at the rate of 1%.

B. Taxability of Agricultural Suppliers <u>Upon the Effectivity of RR 3-2004</u>

1. **On income payments made by top 10,000 private corporations under Sec.2.57.2(M) of RR 2-98 as amended** - Income payments received by agricultural suppliers from these taxpayers are subject to withholding tax at the rate of 1% as supplier of goods.

2. **On income payments made by government under Sec. 2.57.2(N) of RR 2-98, as amended -** Income payments received by agricultural suppliers from these taxpayers are subject to withholding tax but only at the rate of 1% for supplier of goods.

3. **On income payments made by hotels, restaurants, resorts, caterers, food processors, canneries, supermarkets, livestock, poultry, fish and marine products dealers, hardwares, factories, furniture shops and all other establishments under Sec. 2.57.2(S) of RR 2-98 as amended by RR 1-2004 but suspended by RR 3-2004 -** Income payments received by agricultural suppliers from the aforementioned payors not otherwise covered by the other provisions of the withholding tax regulations (i.e., RR 2-98, as amended) are deemed not subject to withholding tax by virtue of the suspension of the imposition of Sec.2.57.2(S) under RR 2-98, as amended by RR 3-2004.

Example : Mr. Rebullido, is a supplier of agricultural products to the following:

a. X Supermarket which is included in the top 10,000 private corporations;
b. City Government of Quezon City; and
c. Y Mini-Grocery Store which is not included in the top 10,000 private corporations.

The only income payments subject to withholding tax are those received by Mr. Rebullido from X Supermarket and that from the City Government of Quezon City. Income payment from Y Mini-Grocery is the item of income payment effectively suspended by RR 3-2004 for withholding tax purposes.

In the light of the above clarification, there is no ground by which agricultural suppliers can claim that they are exempt from the imposition of withholding tax on their sales to top 10,000 private corporations and/or to the government by virtue of the suspension granted by RR 3-2004. In fine, RR 3-2004 did not in any way affect the taxability of agricultural suppliers for withholding tax purposes, insofar as their dealings with the top 10,000 private corporations and/or with the government are concerned.

Hence, all concerned internal revenue officers are hereby mandated to check the withholding tax compliance of the top 10,000 private corporations and of the government in respect to income payments made to agricultural suppliers.

All internal revenue officials and others concerned are hereby enjoined to be guided accordingly and to give this Circular as wide a publicity as possible.

(Original Signed)
LILIAN B. HEFTI
OIC-Commissioner of Internal Revenue

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