REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

October 25, 2012

REVENUE MEMORANDUM CIRCULAR NO. 62-2012

SUBJECT: Clarifying the Reporting of Gross Receipts Relative to Power Generation and Distribution

TO : All Revenue Officials, Employees and Others Concerned

This Circular is issued to synchronize the remittance of Value Added Tax (VAT) on power generation and other related charges with Section 108 of the National Internal Revenue Code of 1997, as amended.

BACKGROUND

Revenue Memorandum Circular No. 61-05 dated October 27, 2005 was issued to clarify the VAT provisions of Republic Act No. 9337 applicable to the power industry. Question No. 26 thereof provides:

> Q26 What is the treatment of the Generation and Transmission charges including the VAT thereon which are pass through charges of the Distribution Companies and Electric Cooperatives?
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> A26 The Generation and Transmission companies shall bill the end-user through the Distribution Companies and Electric Cooperatives for the sale and transmission of electricity and ancillary services including the VAT thereon. The amount collected from the end-user for such charges shall not form part of the gross receipts of the Distribution Companies and Electric Cooperatives. The Distribution Companies and Electric Cooperatives shall not claim an input tax on such pass-through charges. The amount collected from the end-user as payment for the generation and transmission charges including the VAT thereon shall form part of the gross receipts and output VAT of the Generation Company or Transmission Company, accordingly.
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> The Distribution Companies and Electric Cooperatives may advance, exclusive of the corresponding VAT, the generation fee to the Generation company. The amount advanced may be offset against the amount collected from the end-user and only the VAT portion of the generation fee shall be remitted to the generation company upon collection from the end-user. The reckoning of the VATable sale between the generation company and the end-user shall be upon collection on the billing made by the Distribution Companies and Electric Cooperatives.

The procedure in the aforecited provision of RMC No. 61-05 resulted in inefficiency in the collection of VAT on power generation and other related services. It has been noted that Distribution Companies and Electric Cooperatives have incurred delay in the remittance of VAT to Generation Companies. In some instances, Distribution Companies and Electric Cooperatives have paid in advance the generation and other power related charges without remitting the corresponding VAT. Hence, there is a need to revise the process.

REVISED PROCESS

Question No. 26 of RMC No. 61-05 ishereby amended to read as follows:

Q26 What is the treatment of the Generation and other power related charges including the VAT thereon which are pass through charges of the Distribution Companies and Electric Cooperatives?

A26 The Generation Companies, Aggregators, Market Operators, Retail Electricity Suppliers, and other suppliers of electricity shall bill the Distribution Companies and Electric Cooperatives for the sale and transmission of electricity and ancillary services including the VAT thereon, if applicable. The VAT shall be remitted by the Distribution Companies and Electric Cooperatives to the Generation Companies, Aggregators, Market Operators, Retail Electricity Suppliers, and other suppliers of electricity together with the payment for generation and transmission services. All collections by Generation Companies, Aggregators, Market Operators, Retail Electricity Suppliers, and other suppliers of electricity from Distribution Companies and Electric Cooperatives pertaining to generation and other VATablecharges shall be deemed to include the VAT thereon.

The amount collected by the Distribution Companies and Electric Cooperatives from the end-user for such charges, including the VAT thereon, shall not form part of the gross receipts of the Distribution Companies and Electric Cooperatives. The Distribution Companies and Electric Cooperatives shall not claim an input tax on such pass-through charges. The amount collected from the end-user as payment for the generation and other VATable charges including the VAT thereon shall form part of the gross receipts and output VAT of the Generation Company or Transmission Company, accordingly.

If the Distribution Companies and Electric Cooperatives pay in advance the generation fee to the Generation company, the amount paid shall be inclusive of the corresponding VAT. The amount advanced may be offset against the amount collected from the end-user.

Under the new process, the VAT on the sale of electricity and ancillary services shall be paid by the Distribution Companies and Electric Cooperatives together with the generation and other fees. Unlike in the previous procedure where the Distribution Companies and Electric Cooperatives remit the VAT on the sale of electricity and ancillary services only after the same have been collected from the end-user, the new process requires the Distribution Companies and Electric Cooperatives to pay the VAT upfront on the sale of electricity and ancillary services. Such VAT paid may not be claimed as input VAT by the Distribution Companies and Electric Cooperatives as these are mere pass through charges. The amount paid for electricity and ancillary services, including the VAT thereon, may be offset against the amount collected from the end-user by the Distribution Companies and Electric Cooperatives.

This new procedure shall take effect beginning billing period August 26 – September 25, 2012.

All outstanding deferred VAT (VAT on generation and other VATable power related charges where the charges were already paid by the Distribution Companies and Electric Cooperatives to the Generation Companies, Aggregators, Market Operators, Retail Electricity Suppliers, and other suppliers of electricity) in the books of Generation Companies, Aggregators, Market Operators, Retail Electricity Suppliers, and other suppliers of electricity up to billing period ending August 25, 2012 shall be remitted on or before the deadline for filing of the monthly VAT declaration for October which is November 20, 2012. The Distribution Companies and Electric Cooperatives are hereby required to remit the VAT on their purchases prior to August 25, 2012 to the Generation Companies, Aggregators, Market Operators, Retail Electricity Suppliers, and other suppliers of electricity on or before November 15, 2012, to allow the Generation Companies, Aggregators, Market Operators, Retail Electricity Suppliers, and other suppliers of electricity to remit the same to the Bureau of Internal Revenue within the prescribed period. Failure on the part of the Distribution Companies, Electric Cooperatives, Generation Companies, Aggregators, Market Operators, Retail Electricity Suppliers, and other suppliers of electricity to remit the VAT within the dates prescribed herein shall warrant the imposition of penalties, surcharges and interest as provided for under the National Internal Revenue Code of 1997, as amended and its implementing rules and regulation.

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

(Original Signed)
KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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