REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

October 31, 2012

REVENUE MEMORANDUM CIRCULAR NO. 65-2012

SUBJECT	:	Clarifying the Taxability of Association Dues, Membership Fees, and Other Assessments/Charges Collected by Condominium Corporations
TO	:	All Revenue Officials, Employees and Others Concerned

This Circular is issued to clarify the taxability of association dues, membership fees, and other assessments/charges collected by condominium corporations from its members and tenants.

BACKGROUND

The Bureau has issued several rulings exempting from income tax the assessments/ charges collected by condominium corporations from its members, on the ground that the collection of association dues and other assessments/charges are merely held in trust to be used solely for administrative expenses in implementing its purposes i.e., to operate, manage and maintain the condominium project, to defray the costs of the condominium, and from which a condominium corporation could not realize any gain or profit as a result of its receipt thereof.

In addition, the same rulings exempted association dues from value-added tax for the reason that a condominium corporation does not sell, barter, exchange, nor lease any goods or property and neither does it render any service for a fee, but merely implements the administration of the required services to collect the association dues from the unit owners pursuant to its corporate purpose(s) as trustee of the fund thereof.

CLARIFICATION

The taxability of association dues, membership fees, and other assessments/charges collected by a condominium corporation from its members, tenants and other entities are discussed hereunder.

I. **Income Tax --** The amounts paid in as dues or fees by members and tenants of a condominium corporation form part of the gross income of the latter subject to income tax. This

is because a condominium corporation furnishes its members and tenants with benefits, advantages, and privileges in return for such payments. For tax purposes, the association dues, membership fees, and other assessments/charges collected by a condominium corporation constitute income payments or compensation for beneficial services it provides to its members and tenants. The previous interpretation that the assessment dues are funds which are merely held in trust by a condominium corporation lacks legal basis and is hereby abandoned.

Moreover, since a condominium corporation is subject to income tax, income payments made to it are subject to applicable withholding taxes under existing regulations.

II. **Value-Added Tax (VAT)** – Association dues, membership fees, and other assessments/charges collected by a condominium corporation are subject to VAT since they constitute income payment or compensation for the beneficial services it provides to its members and tenants.

Section 105 of the National Internal Revenue Code of 1997, as amended, provides:

> "SECTION 105. Persons Liable. — Any person who, in the course of trade or business, sells, barters, exchanges, leases goods or properties, renders services, and any person who imports goods shall be subject to the value-added tax (VAT) imposed in Sections 106 to 108 of this Code.
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> The phrase 'in the course of trade or business' means the regular conduct or pursuit of a commercial or an economic activity, including transactions incidental thereto, by **any person regardless of whether or not the person engaged therein is a nonstock, nonprofit private organization (irrespective of the disposition of its net income and whether or not it sells exclusively to members or their guests)**, or government entity." (Emphasis supplied)

The above provision is clear -- even a non-stock, non-profit organization or government entity is liable to pay VAT on the sale of goods or services. This conclusion was affirmed by the Supreme Court in Commissioner of Internal Revenue v. Court of Appeals and Commonwealth Management and Services Corporation, G.R. No. 125355, March 30, 2000. In this case, the Supreme Court held:

> "(E)ven a non-stock, non-profit organization or government entity, is liable to pay VAT on the sale of goods or services. VAT is a tax on transactions, imposed at every stage of the distribution process on the sale, barter, exchange of goods or property, and on the performance of services, even in the absence of profit attributable thereto. The term "in the course of trade or business" requires the regular conduct or pursuit of a commercial or an economic activity, regardless of whether or not the entity is profit-oriented.

The definition of the term "in the course of trade or business" incorporated in the present law applies to all transactions even to those made prior to its enactment. Executive Order No. 273 stated that any person who, in the course of trade or business, sells, barters or exchanges goods and services, was already liable to pay VAT. The present law merely stresses that even a nonstock, nonprofit organization or government entity is liable to pay VAT for the sale of goods and services.

Section 108 of the National Internal Revenue Code of 1997 defines the phrase "sale of services" as the "performance of all kinds of services for others for a fee, remuneration or consideration." It includes "the supply of technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking or project."

On February 5, 1998, the Commissioner of Internal Revenue issued BIR Ruling No. 010-98 emphasizing that a domestic corporation that provided technical, research, management and technical assistance to its affiliated companies and received payments on a reimbursement-of-cost basis, without any intention of realizing profit, was subject to VAT on services rendered. In fact, even if such corporation was organized without any intention of realizing profit, any income or profit generated by the entity in the conduct of its activities was subject to income tax.

Hence, **it is immaterial whether the primary purpose of a corporation indicates that it receives payments for services rendered** to its affiliates **on a reimbursement-on-cost basis only**, without realizing profit, for purposes of determining liability for VAT on services rendered. **As long as the entity provides service for a fee, remuneration or consideration, then the service rendered is subject to VAT**."

Accordingly, the gross receipts of condominium corporations including association dues, membership fees, and other assessments/charges are subject to VAT, income tax and income payments made to it are subject to applicable withholding taxes under existing regulations.

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

This Circular takes effect immediately.

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

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