REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

November 15, 2012

REVENUE MEMORANDUM CIRCULAR NO. 71-2012

Subject: Clarification on the Implementation of RMC No. 62 – 2012 dated October 25, 2012.

To : All Revenue Officials, Employees and Others Concerned

This Circular is issued to clarify issues in the implementation of RMC No. 62 – 2012 dated October 25, 2012.

Q1: Will generation companies (GenCos), aggregators, market operators, retail electricity suppliers and other suppliers of electricity be liable to interest and penalties for the non-remittance of all the outstanding deferred VAT from distribution utilities/electric cooperatives (DUs/ECs) prior to August 25, 2012, if the latter have not collected all or partly the same from DUs/ECs?

A1: No. GenCos, aggregators, market operators, retail electricity suppliers and other suppliers of electricity shall only be required to remit the amount of deferred VAT prior to August 25, 2012 that they have collected from the DUs/ECs, which the latter have collected from the end-users/customers.

DUs/ECs shall reconcile with GenCos, aggregators, market operators, retail electricity suppliers and other suppliers of electricity the unremitted portion of the deferred VAT, prior to August 25, 2012, which shall be subject to audit by the BIR.

However, the deferred VAT prior to August 25, 2012, which has already been remitted by the DUs/ECs to the GenCos, aggregators, market operators, retail electricity suppliers and other suppliers of electricity, but not paid by the latter to the BIR, within the deadline prescribed herein, shall be subject to surcharge, interest and penalties.

As a transitory procedure, the BIR shall require the following:

1) GenCos, aggregators, market operators, retail electricity suppliers and other suppliers of electricity shall submit (hard copy and soft copy in CD form), to the Office of the Commissioner, on or before November 19, 2012, an inventory as of September 30, 2012

of the outstanding deferred VAT prior to August 25, 2012 from DUs/ECs and others. Refer to Annex "A" for the format.

2) DUs/ECs shall remit the deferred VAT, on behalf of each GenCo, aggregator, retail electricity supplier and other suppliers of electricity, thru manual filing/payment, on or before November 26, 2012, using BIR Form No. 0605. The TIN of the GenCo, aggregator, retail electricity supplier and other suppliers of electricity shall be clearly indicated on the BIR Form No. 0605. Mark "X" the box for "Others (Specify)" and indicate that the payment is for "DEFERRED VAT – RMC 71-2012". Filing/Payment shall be made at the Revenue District Office (RDO) where the DUs/ECs are registered.

3) DUs/ECs shall submit (hard copy and soft copy in CD form) to the Office of the Commissioner, on November 28, 2012, a Summary of the Remittance of Deferred VAT, clearly indicating the name of Supplier, Address, TIN, RDO No , amount of VAT remitted, billing period, name of bank and date of remittance. Refer to Annex "B" for the format.

4) DUs/ECs shall provide the GenCos, aggregator, retail electricity supplier and other suppliers of electricity with copies of the duly filed BIR Form No. 0605, together with the proof of payment, within 3 days from the date of remittance to the BIR. The same shall be the basis of the GenCos and others to record the payment of deferred VAT. The unremitted portion of the deferred VAT prior to August 25, 2012, if any, shall remain outstanding until the closure of the BIR audit of DUs/ECs.

Q2: How about the outstanding deferred VAT accumulated prior to billing period August 25, 2012 for the Philippine Electricity Market Corporation (PEMC) / Wholesale Electricity Spot Market (WESM)?

What will be the treatment of the deferred output VAT in the books of GenCos relating to its sales to the Wholesale Electricity Spot Market (WESM)?

Will the PEMC likewise be required to remit the same to the GenCos?

A2: With regards to the deferred VAT prior to billing period ending August 25, 2012 for PEMC/WESM, the DUs/ECs shall remit the same not later than November 19, 2012 to PEMC, who shall, in turn, remit the same to the BIR, thru manual filing/payment, on or before November 26, 2012, using BIR Form No. 0605. The TIN of the GenCo, aggregator, retail electricity supplier and other suppliers of electricity shall be clearly indicated on the BIR Form 0605. Mark "X" the box for "Others (Specify)" and indicate that the payment is for "DEFERRED VAT – RMC 71-2012". Filing/Payment

shall be made at the Development Bank of the Philippines (DBP), G/F BIR National Office or Quezon Avenue Branch, after securing approval from the Chief of LTDPQAD.

DUs/ECs shall submit (hard copy and soft copy in CD form) to the Office of the Commissioner on November 28, 2012, a Summary of Remittance of Deferred VAT to PEMC/WESM. Refer to Annex "C" for the format.

PEMC/WESM shall submit (hard copy and soft copy in CD form) to the Office of the Commissioner on November 28, 2012, a Summary of the Remittance of Deferred VAT, clearly indicating the name of Supplier, Address, TIN, RDO No. , amount of VAT remitted, billing period, name of bank and date of remittance. Refer to Annex "B" for the format.

PEMC/WESM shall provide the GenCos, aggregator, retail electricity supplier and other suppliers of electricity with copies of duly filed BIR Form No. 0605, together with the proof of payment, within 3 days from remittance to the BIR. The same shall be the basis of the GenCos and others to record the payment of deferred VAT. The unremitted portion of the deferred VAT prior to August 25, 2012, if any, shall remain outstanding until the closure of the BIR audit of PEMC/WESM.

Q3: Will the DUs/ECs be required to advance all the outstanding VAT including the following items that they can no longer collect from their customers?

a) VAT zero rated sales of DUs and ECs relating to PEZA-registered enterprises

b) 5% withholding VAT relating to DUs/ECs sales to the Govt/GOCCS

c) Corresponding VAT of written off delinquent accounts by DUs/ECs?

A3: No. The DU/ECs are only required to remit the VAT collected from end-users. However, DUs/ECs shall be subjected to immediate audit to validate the reasons for the remaining deferred VAT account balance.

Q4: Under RMC No. 62-2012, how will the DUs/ECs determine the amount of generation fee and corresponding VAT to be paid per GenCo?

A4: Under the new process, the VAT collected from end-users by the DUs/ECs must immediately be remitted to the GenCos,

aggregators, market operators, retail electricity suppliers and other suppliers of electricity, not later than the 10th day of the following month, to enable the GenCos remit the VAT on or before the 20th or 25th of the same month, whichever is applicable, net of GenCos' own input tax, if any. Likewise, DUs/ECs are required to furnish the GenCos, with a summary list of VAT collections from end-users/customers, to enable the GenCos to file the VAT returns, and attach the said list as a supplemental schedule to the GenCos' Summary List of Sales submitted to the BIR.

However, if the DU/EC has special arrangements with the GenCo for discounts for prompt payments, and such is availed of by the DU/EC, said payment shall be deemed collected from the end-user/client. Accordingly, the same shall be reported as part of the GenCo's vatable gross receipts, and shall be subjected to VAT.

Q5: Under RMC No. 62-2012, how will the DUs/ECs allocate their zero rated sales and other reconciling items to the GenCos?

A5: The zero rated sales and other reconciling items shall be proportionately allocated by the DUs/ECs based on kilowatt purchased.

Q6: Under the new process, who shall then claim the 5% creditable withholding VAT on sales to government/GOCCS under the following scenarios?

a) GenCos directly selling to DUs/ECs

b) GenCos indirectly selling to DUs/ECs thru the National Grid Corporation of the Phils (NGCP) or NPC/PSALM.

A6: The DUs/ECs shall provide the GOCC customers the breakdown of its GenCos, as reference for the issuance of a separate Certificate of Final Tax Withheld at Source (BIR Form No. 2306) for the generation cost and distribution cost. NOTE: NGCP, which provides for transmission services is subject to 3% franchise tax, hence, the withholding of government money payments shall be thru percentage tax withholding.

This shall also be the same procedure for GenCos indirectly selling to DUs/ECs, thru the National Grid Corporation of the Phils. (NGCP), or NPC/PSALM.

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

(Original Signed)
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Commissioner of Internal Revenue