REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

December 21, 2009

REVENUE MEMORANDUM CIRCULAR NO. 72 – 2009

SUBJECT : Value Added Tax (VAT) Liability of the Tollway Operators

TO : All Internal Revenue Officers and Others Concerned

This Circular is being issued as a reiteration of Revenue Memorandum Circular (RMC) No. 52-2005 imposing the Value Added Tax (VAT) on the Tollway Opertors.

This is premised on Section 108(A) of the National Internal Revenue Code (hereinafter referred to as the "Tax Code") as amended by Republic Act No. 9337 (dated May 24, 2005), which holds that:

> "Sec. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. –
>
> (A) Rate and Base of tax. –
>
> The phrase "sale or exchange of services" means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration, including …. *services* of franchise grantees of electric utilities, telephone and telegraph, radio and television broadcasting and *all other franchise grantees* except those under Sec. 119 of this Code … " (Underscoring and italics supplied)

By way of further clarification, the exception provided under Section 119 of the Tax Code, as amended by R.A. No. 9337, is prescribed as follows:

> "Sec. 119. Tax on Franchises. – Any provision of general or special law to the contrary notwithstanding, there shall be levied, assessed and collected in respect to all franchises on *radio and/or television broadcasting companies* whose annual gross receipts of the preceding year do not exceed Ten million pesos (P10,000,000.00) … and on gas and water utilities …" (Underscoring and italics supplied)

In this regard, it is hereby reiterated that the sale of services of franchise grantees *except those excluded under the above-quoted Sec. 119 of the Tax Code* is subject to VAT.

Accordingly, the services being rendered by the Tollway Operators *which do not fall under the exceptions specified under Section 119 of the Tax Code (as amended)* are subject to VAT.

The tax issues, including VAT, of all Tollway Operators for the years 2007 to 2009 shall be under the jurisdiction of the Task Force on Tollway Operators created pursuant to Revenue Special Order No. 617-2009.

All Tollway Operators are required to follow the invoicing/receipting format prescribed in RMC No. 40-2005.

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

(Original Signed)
JOEL L. TAN-TORRES
Commissioner of Internal Revenue