BUREAU OF INTERNAL REVENUE
RECORDS MGT. DIVISION
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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

October 11, 2017

REVENUE MEMORANDUM CIRCULAR NO. 85-2017

SUBJECT : Value-Added Tax (VAT) Rate to be Used in the Preparation of the Approved Budget for the Contract (ABC) for Government Projects.

TO : All Internal Revenue Officers and Others Concerned

Sales to the government or any of its political subdivisions, instrumentalities or agencies including government-owned or controlled corporations (GOCCs), of goods and/or services are generally subject to the twelve percent (12%) VAT under Sections 106 and 108 of the NIRC, unless the sale transaction is specifically VAT-exempt or VAT zero-rated under the provisions of the NIRC or other special laws.

The rules on the collection and remittance of VAT on government purchases that are subject to VAT are prescribed under Section 4.114(2)(a) of Revenue Regulations (RR) No. 16-2005, implementing Section 114(C) of the National Internal Revenue Code (NIRC), to wit:

> "SEC. 4.114-2. Withholding of VAT on Government Money Payments xxx.-
>
> (a) The government or any of its political subdivisions, instrumentalities or agencies including government-owned or controlled corporations (GOCCs) shall, before making payment on account of each purchase of goods and/or of services taxed at twelve percent (12%) VAT pursuant to Secs. 106 and 108 of the Tax Code, deduct and withhold a final VAT due at the rate of five percent (5%) of the gross payment thereof.
>
> The five percent (5%) final VAT withholding rate shall represent the net VAT payable of the seller. The remaining seven percent (7%)[1] effectively accounts for the standard input VAT for sales of goods or services to government or any of its political subdivisions, instrumentalities or agencies

[1] As amended by Revenue Regulations No. 04-2007.

> including GOCCs in lieu of the actual input VAT directly attributable or ratably apportioned to such sales. Should actual input VAT attributable to sale to government exceeds seven percent (7%) of gross payments, the excess may form part of the sellers' expense or cost. On the other hand, if actual input VAT attributable to sale to government is less than seven percent (7%) of gross payment, the difference must be closed to expense or cost. (Underscoring supplied)

While government purchases are subject to the 12% VAT, the procuring government entity is only required to deduct and withhold a five percent (5%) final VAT based on the gross payment thereof. The 5% final VAT represents the net VAT that is payable by the seller of goods or services. The remaining seven percent (7%) would effectively account for the standard input VAT for the sale of goods/services to the government entity, in lieu of the actual input VAT directly attributable or ratably apportioned to such sale. The difference between the 7% VAT and the actual input tax incurred may form part of the sellers' expense or cost or will be closed to expense or cost, as the case may be.

In view of the foregoing, the appropriate VAT rate to be used in the preparation of the ABC is 12%. This is to allow the sellers of goods/services to have the 7% as their standard input VAT which is in lieu of the actual input VAT directly attributable or ratably apportioned to their sales to the government. It must be noted that sellers of goods and/or services to the government are not allowed to deduct the actual input VAT attributable to such sales against the output VAT on their regular sales because the 7% standard input VAT is supposed to take the place of said actual input VAT. Moreover, the actual input VAT attributable to sales to government cannot be claimed for refund or tax credit because Section 4.114-2(a) of RR No. 16-2005 already provides for the rule on how the sellers of goods/services can recoup the actual input VAT attributable or ratably apportioned to their sales to the government.

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

This Circular shall take effect immediately.

CAESAR R. DULAY
Commissioner of Internal Revenue

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