REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

18 December 2006

REVENUE MEMORANDUM ORDER NO. 28-2006

SUBJECT: Supplement To The Guidelines And Procedures For The Processing Of Pending Claims For Tax Credit/Refund Of Excise Tax Paid On Petroleum Products Prescribed In RMO No. 19-2006 and RMC No. 59-2005

TO : All Internal Revenue Officers and Others Concerned

I. Background

Revenue Memorandum Order (RMO) No. 19-2006 dated 10 August 2006 was earlier issued, in line with the requirements of Revenue Memorandum Circular (RMC) No. 59-2005 dated 21 October 2005, attached to which as annex "A" was a checklist of documentary requirements for the processing of pending claims for tax credit/refund of excise tax paid on petroleum products sold to international carriers and exempt entities or agencies pursuant to Section 135 of the Tax Code of 1997.

In the case of sales and deliveries of tax-paid petroleum products to international carriers pursuant to Section 135(a) and (b) of the Tax Code of 1997, the documents required to be submitted pursuant to RMO No. 19-2006 and RMC No. 59-2005 include, among others, (i) sales invoice issued in the name of the international carrier and/or in the name of the international carrier "c/o Name of Intermediary Party/Broker," and (ii) official receipt issued in the name of the international carrier and/or in the name of the international carrier "c/o Name of Intermediary Party/Broker."

However, oil companies that had already consummated sales and deliveries of petroleum products to international carriers prior to the issuance of both RMC No. 59-2005 and RMC 19-2006, are not in a position to belatedly comply with the required format of sales invoice/official receipt simply because the transactions subject of the pending refund claims with the Bureau of Internal Revenue (BIR) prior to the issuance of the aforesaid issuances, had already been completed, and the sales invoices/official receipts that are not in the required format had already been issued to the concerned customers of the oil companies.

It appears that, by way of industry practice, oil manufacturers/producers or importers were accustomed to selling tax-paid petroleum products to international carriers, net of excise taxes, through intermediary parties/brokers and that the oil manufacturers/producers or importers directly deliver the petroleum products to exempt international carriers. Apparently, the participation of intermediary parties/brokers were meant to facilitate collection of payment from international carriers. However, in this practice, because the oil manufacturers/producers or importers deal with the intermediary

parties/brokers, in many occasions, they had billed and collected payments from the said intermediary parties/brokers of excise tax, and had issued the sales invoices/official receipts directly in the name of the intermediary parties/brokers. Hence, the improbability for oil companies to comply with the above-mentioned procedural requirements of RMC No. 59-2005 and RMO No. 19-2006 for their said past transactions with respect to their pending claims for tax credit/refund with the BIR, *i.e.,* despite the possibility of actual sale of said products to international carriers.

II. Coverage

In view of the foregoing, in the case of sales and deliveries of tax-paid petroleum products to international carriers pursuant to Section 135(a) and (b) of the Tax Code of 1997, with pending claims for tax credit/refund on excise tax paid thereon by oil manufacturer/producer or importer, the submission of sales invoices and/or official receipts issued in the name of the international carrier and/or the intermediary party/broker will be considered sufficient for purposes of RMC No. 59-2005 and RMO No. 19-2006, provided that the oil manufacturer/producer or importer claiming tax credit/refund also complies with, and submits the other documentary requirements prescribed in the said issuances, or such other pertinent documents, to show that the petroleum products had been actually sold and delivered to exempt international carriers.

Oil companies whose claims for tax credit/refund were previously denied/disallowed for their failure to satisfy the aforesaid specific requirement on invoicing/official receipting pursuant to RMC No. 59-2005 and RMO No. 19-2006, may however file their application for reconsideration of such denial/disallowance on account of this Order, provided that the same is filed not later than sixty (60) days from the effectivity hereof.

III. Effectivity

This order shall take effect immediately. Provisions of pertinent issuances which are inconsistent with the foregoing are deemed amended accordingly.

(Original Signed)
JOSE MARIO C. BUÑAG
Commissioner of Internal Revenue