REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

BUREAU OF INTERNAL REVENUE
RECORDS MGT. DIVISION
2:18 P.M.
JAN 18 2017
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January 3, 2017

REVENUE REGULATIONS NO. 1-2017

SUBJECT : **Prescribing the Regulations Governing Applications for Value-Added Tax (VAT) Credit/Refund Filed Under Section 112 of the Tax Code, as Amended, Prior to Revenue Memorandum Circular No. 54-2014 dated June 11, 2014**

TO : **All Internal Revenue Officials, Officers and Others Concerned**

SECTION 1. BACKGROUND. – On August 27, 2003, Revenue Memorandum Circular (RMC) No. 49-2003 dated August 15,2003, was issued to allow taxpayers to file the complete documents to enable the Commissioner of Internal Revenue to properly process the administrative claims for tax credit or tax refund. It provided that upon filing of his application for tax credit/refund, the taxpayer-claimant is given thirty (30) days within which to complete the required documents unless given further extension by the head of the processing unit but such extension shall not exceed thirty (30) days. The claim shall be officially received only upon submission of complete documents. It is only upon such submission that the 120-day period would begin to run. In this sense, it is the taxpayer "who ultimately determines when complete documents have been submitted for the purpose of commencing and continuing the running of the 120-day period."

RMC No. 54-2014 dated June 11, 2014, was issued which provides that the Commissioner shall have one hundred twenty (120) days from date of submission of complete documents to decide whether or not to grant the claim for tax credit/refund. If the claim is not acted upon by the Commissioner within the statutory 120-day period, such "inaction shall be deemed a denial" of the application for tax credit or refund. Further it requires that the application or claim must already be accompanied by complete supporting documents and the taxpayer is barred from submitting additional documents after he has filed his administrative claim. This takes away from the taxpayer-claimant the reckoning of the 120-day period.

It appears that RMC No. 54-2014 was being given retroactive effect because pending claims were deemed denied upon expiration of the 120-day period from the date the claims were filed even though the taxpayer-claimants are still in the process of submitting the complete documents which was allowed under RMC No. 49-2003. It presumed that the pending claims had been filed with complete documents and the same have remained unacted upon beyond the 120-day period.

On December 8, 2016, the Supreme Court, in the case *Pilipinas Total Gas, Inc. vs. The Commissioner of Internal Revenue* (G.R. No. 207112), decreed that taxpayers "have every right to pursue their claims in the manner provided by existing regulations at the time it was filed," and, therefore, RMC No. 54-2014 cannot be applied retroactively as this would prejudice taxpayers whose VAT claims for tax credit or tax refund were filed and pending before June 11, 2014, the date RMC No. 54-2014 took effect. This judicial declaration

compels the need to clarify the tax treatment and processing of applications for VAT tax credit/refund filed and pending prior to RMC 54-2014.

SEC. 2. SCOPE. – Pursuant to the provisions of Section 244, in relation to Section 246 and Section 112 of the Tax Code, as amended, these Regulations are issued to give effect to the doctrinal rule laid down in the aforecited *Pilipinas Total Gas* case and to afford fair and adequate relief to taxpayer-claimants whose claims were "deemed denied" as a result of the retroactive application of RMC No. 54-2014. For this purpose, and consistent with the judicial "summation of rules" decreed to be "made applicable to claims of tax credit/refund filed before June 11, 2014," such claims filed prior to RMC No. 54-2014 shall continue to be processed administratively.

SEC. 3 PROCESSING OF ADMINISTRATIVE CLAIMS. – VAT claims filed and pending prior to the effectivity of RMC 54-2014, the claims solely covered by these Regulations, shall be processed and approved in accordance with the following rules:

1. The claimant-taxpayer, under Section 112 (A) of the Tax Code, as amended, has two (2) years after the close of the taxable quarter when the sales were made, to apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales. Thus, before the administrative claim is barred by prescription, the taxpayer must have submitted his complete documents in support of the application filed. This is because, it is upon the complete submission of his documents in support of his application that it can be said that the application was, "officially received" as clarified under RMC No. 49-2003.

2. In all cases, whatever documents a taxpayer intends to file to support his claim must be completed within the two-year period under Section 112 (A) of the Tax Code, as amended, and the Commissioner, or his duly authorized representative, should have decided on the claim for tax credit or refund within 120 days from the date of submission of complete documents, or from the date filing of the application, if the claimant-taxpayer did not submit additional documents.

   Hence, pending administrative claims prior to the effectivity of RMC No. 54-2014 shall be processed by the concerned offices based on available documents submitted by the claimant-taxpayer within the aforesaid statutory two-year period. For this purpose, the result shall be communicated in writing by the concerned revenue official.

SEC. 4. CLAIMS NOT COVERED. – The following claims filed and pending before the effectivity of RMC 54-2014 are not covered by these Regulations:

1. Those claims filed beyond the two-year statutory prescriptive period under Section 112 (A) of the Tax Code, as explained in Sec. 3 hereof;

2. Those denied in writing by the approving authority;

3. Those approved or granted fully or partially by the approving authority; and

4. Those already appealed to and pending with the CTA unless there is proof of withdrawal of the case filed with the CTA.

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SEC. 5. REPEALING CLAUSE. – All revenue issuances inconsistent herewith are hereby repealed or modified accordingly.

SEC. 6. EFFECTIVITY CLAUSE. – These regulations shall take effect fifteen (15) days after publication in a newspaper of general circulation.

CARLOS G. DOMINGUEZ III
Secretary of Finance

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RECOMMENDING APPROVAL:

CAESAR R. DULAY
Commissioner of Internal Revenue

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