REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

November 26, 2008

REVENUE REGULATIONS NO. 14-2008

Subject: Amending Further Section 2.57.2(M) of Revenue Regulations No. 2-98, as Amended, Increasing the Coverage of Withholding Tax Agents Required to Withhold 1% from Regular Suppliers of Goods and 2% from Regular Suppliers of Services from the Top 10,000 Private Corporations to Top 20,000 Private Corporations

To: All Internal Revenue Officers and Others Concerned

SECTION 1. SCOPE. - Pursuant to the provisions of Section 244 of the Tax Code of 1997, as amended, in relation to Section 57(B) thereof, these Regulations are hereby promulgated to further amend Section 2.57.2(M) of Revenue Regulations No. 2-98, as amended, increasing the coverage of withholding tax agents who are required to withhold 1% from the regular suppliers of goods and 2% from the regular suppliers of services from the top ten thousand (10,000) private corporations to top twenty (20,000) private corporations.

SEC. 2. AMENDMENT. - Section 2.57.2(M) of Revenue Regulations 2-98, as amended, is hereby further amended to read as follows:

"Sec. 2.57. ***Withholding of Tax at Source.*** –

"Sec. 2.57.2. ***Income payment subject to creditable withholding tax and rates prescribed thereon***. – Except as herein otherwise provided, there shall be withheld a creditable income tax at the rates herein specified for each class of payee from the following items of income payments to persons residing in the Philippines.

"x x x x x x x x x

"(M) ***Income payments made by the top twenty thousand (20,000) private corporations to their local/resident supplier of goods and local/resident supplier of services other than those covered by other rates of withholding tax.*** – Income payments made by any of the **top twenty thousand (20,000) private corporations**, as determined by the Commissioner, to their local/resident supplier of goods and local/resident supplier of services, including non-resident alien engaged in trade or business in the Philippines

Supplier of goods - - One percent (1%)
Supplier of services – Two percent (2%)

"**Top twenty thousand (20,000) private corporations** shall include a corporate taxpayer who has been determined and notified by the Bureau of Internal Revenue (BIR) as having satisfied any of the following criteria:

(a) Classified and duly notified by the Commissioner as a large taxpayer under Revenue Regulations No. 1-98, as amended, **or belonging to the top five thousand (5,000) private corporations under RR 12-94, or to the top ten thousand (10,000) private corporations under RR 17-2003, unless previously de-classified as such or had already ceased business operations** (automatic inclusion);

(b) Any taxpayer with net VAT paid or payable for the preceding year of at least P100,000;

(c) Any taxpayer with annual income tax paid or payable for the preceding year of at least P200,000;

(d) Any taxpayer with percentage taxes for the preceding year of at least P100,000;

(e) Any taxpayer whose gross sales for the preceding year is over P10,000,000;

(f) Any taxpayer whose gross purchases for the preceding year is over P5,000,000.

"The term "*goods*" pertains to tangible personal property. It does not include intangible personal property, as well as real property.

"The term "*local/resident suppliers of goods*" pertains to a supplier from whom any of the **top twenty thousand (20,000) private corporations**, as determined by the Commissioner, regularly makes its purchases of goods. As a general rule, this term does not include a casual purchase of goods, that is, purchase made from a non-regular supplier and oftentimes involving a single purchase. However, a single purchase which involves Ten thousand pesos (P10,000.00) or more shall be subject to a withholding tax. The term "*regular suppliers*" refers to suppliers who are engaged in business or exercise of profession/calling with whom the taxpayer-buyer has transacted at least six (6) transactions, regardless of amount per transaction, either in the previous year or current year. The same rules apply to local/resident supplier of services other than those covered by separate rates of withholding tax.

"A corporation shall not be considered a withholding agent for purposes of this Section, unless such corporation has been determined and duly notified in writing by the Commissioner that it has been selected as one of the **top twenty thousand (20,000) private corporations.**

"Any corporation which has been duly classified and notified as large taxpayer by the Commissioner pursuant to RR 1-98, as amended, shall be automatically considered one of the **top twenty thousand (20,000) private corporations,** *provided, however*, that its authority as a withholding agent shall be effective only upon receipt of

written notice from the Commissioner that it has been classified as a large taxpayer, as well as one of the **top twenty thousand (20,000) private corporations,** for purposes of these regulations.

"Any corporation shall remain a withholding agent for purposes of these regulations, unless the Commissioner notifies it in writing that it shall cease to be one. The following, however, are some of the reasons that a taxpayer shall automatically cease to be a withholding agent, and therefore no prior written notice, for purposes of these regulations, is required, to wit:

(a) closure/cessation of business/dissolution (for taxpayer with notice of dissolution given to the BIR);

(b) merger/consolidation (for dissolved or absorbed corporation);

(c) any other form of business combination wherein by operation of law a corporate taxpayer loses its juridical personality.

"The withholding agent shall submit on a semestral basis a list of **its** regular suppliers of goods and/or services to the Large Taxpayers Assistance Division/Large Taxpayers District Office in the case of large taxpayers duly notified as such pursuant to RR 1-98, as amended, or Revenue District Office **(RDO)** having jurisdiction over the withholding agent's principal place of business on or before July 31 and January 31 of each year.

"A government-owned or -controlled corporation previously classified as one of the top five thousand (5,000) corporations under RR 12-94, as amended, shall cease to be a withholding agent or included in the **top twenty thousand (20,000) private corporations** for purposes of these regulations but rather shall be treated as one under the succeeding sub-section (N) since it is already withholding **1%** or 2% of the amount paid for the purchase of goods/services from local/resident suppliers.

"The Commissioner of Internal Revenue may recommend to the Secretary of Finance the amendment/modification to any or all of the criteria in the determination and selection of taxpayers forming part of the **top twenty thousand (20,000) private corporations** after considering such factors as inflation, volume of business, and similar factors. *Provided, however*, that the Commissioner is empowered to conduct periodic review as to the number of taxpayers who ceased to qualify under the category of **top twenty thousand (20,000) private corporations** for purposes of delisting them or excluding them from the list and to identify taxpayers to be added to the list of **top twenty (20,000) private corporations.**

"All taxpayers previously included in the list of top 5,000 **private** corporations under RR 12-94, as amended, **and those who qualified as top ten thousand (10,000) private corporations under RR 17-2003** shall continue to withhold **one percent (1%)** for supplier of goods and 2% for supplier of services upon the effectivity of these Regulations, unless any of the following situations occur: (a) the Commissioner communicates in writing that they have ceased to qualify as taxpayers includible in the list of **top twenty thousand (20,000) private corporations,** or (b) those officially identified to have ceased business operations, or undergone any of the business

combinations wherein by operation of law the juridical personality of said taxpayers ceased."

SEC. 3. REPEALING CLAUSE. – All existing rules and regulations or parts thereof which are inconsistent with the provisions of these regulations are hereby modified, amended, revoked or repealed accordingly.

SEC. 4. EFFECTIVITY – These regulations shall take effect fifteen (15) days following publication in a newspaper of general circulation.

(Original Signed)
MARGARITO B. TEVES
Secretary of Finance

RECOMMENDING APPROVAL:

(Original Signed)
SIXTO S. ESQUIVIAS IV
Commissioner of Internal Revenue