REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

August 22, 2013

REVENUE REGULATIONS NO. 16-2013

SUBJECT : Revoking Revenue Regulations Nos. 16-2003 and 24-2003 Relating to Taxation of Privilege Stores and Imposing New Rules

TO : All Revenue Officials and Employees and Others Concerned

---

These Regulations shall govern the taxation of persons who sell goods and/or services through the use of "privilege-store."

Section 1. Scope. —

Pursuant to the provisions of Sections 6, 244 and 245 in relation to Sections 116 and 128 of the National Internal Revenue Code of 1997 (NIRC), these Regulations are hereby promulgated to amend Revenue Regulations (RR) No. 16-2003, as amended by RR No. 24-2003, and to prescribe new rules on the collection of business and income taxes including withholding tax on income payments by/to "privilege stores" popularly known as *"tiangge/s*" and the obligations of organizers or exhibitors of space for the operation of "privilege stores" as well as the obligations of the "privilege store" operators.

Section 2. Definition of Terms. — For purposes of these regulations:

(a) "**Privilege Store**" refers to a stall or outlet which is not permanently fixed to the ground and is normally set up in places like shopping malls, hospitals, office buildings, hotels, villages or subdivisions, churches, parks, streets and other public places, for the purpose of selling a variety of goods/services for short durations of time or **during special events (including festivals, fiestas, etc.)**. Provided, however, that should the store engage in any business activity for a cumulative period of more than fifteen (15) days, it shall not be considered a "privilege-store" under these Regulations.

If the privilege store is operating more than one (1) business activity in a separate venue or simultaneously operating several or multiple business activities in one (1) venue, it shall be considered one (1) day per business activity in the computation of cumulative number of days in a given taxable year.

(b) "**Exhibitor**" or "**Organizer**" refers to the primary lessee of the entire space where the operations of privilege stores are held by virtue of a lease contract executed between the owner of the leased property and the organizer who subsequently sub-leases the same to the privilege store operators during the entire duration of the lease contract. In case the owner of the real property is the one directly leasing to the privilege store operator defined in Item (c) below, such owner shall be constituted as the exhibitor or organizer for this purpose.

(c) "**Privilege Store Operator"** refers to the individual leasing from the lessor/owner or subleasing from the "exhibitor" or "organizer" a space upon which privilege stores are erected for the purpose of selling goods or services during the entire duration of the lease contract/s. Provided, however, that should the duration exceed a cumulative period of fifteen (15) days in any taxable year, the person or entity shall be considered habitually engaged in business and shall not be considered a "privilege store operator" under these Regulations.

Persons appearing to be doing business as privilege store operators but who are disqualified under these regulations, i. e., they have operated for more than fifteen (15) days, shall be registered with the Bureau of Internal Revenue (BIR) as regular taxpayers. As such, they are required to have their own sets of invoices and/or official receipts and pay taxes such as income tax, business tax (percentage or value added tax) and remit withholding tax, particularly on rental.

(d) "**Regular taxpayers**" – refers to business persons other than privilege store operators or organizers as defined above.

Section 3. Obligations of the Exhibitor/Organizer and Privilege Store Operators to the Bureau of Internal Revenue. ---

(A). – Obligations of Exhibitor or Organizer -

(1) Obligation to Post in a Conspicuous Place the Certificate of Registration of the Organizer. – Every organizer or exhibitor is obliged to post its Certificate of Registration (COR–**BIR Form No. 2303**) issued by the BIR in a conspicuous place in the area or space devoted to the establishment of privilege stores. If such organizer or exhibitor is not yet registered with the BIR, then such organizer/exhibitor must register with the BIR at least fifteen (15) days before the commencement of privilege stores activity**/ies** and shall be valid within the calendar year. **The principal place of business of the organizer/exhibitor shall be considered as Head Office (HO). If the address/es of the area/s or space/s devoted to the establishment of privilege stores is/are different from the**

principal place of business, the same shall be registered as Branch/es.

(2) **Obligation to Deduct and Withhold Expanded Withholding Tax on Lease Payments to the Lessor of Real Property.** – Every exhibitor or organizer, upon accrual or payment of lease rentals to the owner of real property, shall withhold and deduct from such accrued or paid rentals, withholding tax on rentals at the rate five percent (5%) of the gross rental, as prescribed in RR 2-98, as amended, which shall be remitted/paid on or before the tenth (10^{th}) day of the following month using the Monthly Remittance Return of Creditable Income Taxes Withheld (Expanded) [BIR Form No. 1601E] except for taxes withheld for the month of December of each year, which shall be remitted on or before January 15 of the following year. For those who would be filing using the Electronic Filing and Payment System (EFPS), the regulations pertaining to EFPS filers shall apply. Provided, however, that if the exhibitor or organizer happens to be the owner of the leased property, this provision shall not apply.

(3) **Obligation to Inform Revenue District Office (RDO).** – The exhibitor/organizer, upon determination of the number and of the respective identities of those who have leased/sub-leased the spaces for the operation of the privilege stores shall have the duty, prior to the opening thereof and prior to the issuance of his/its COR **(BIR Form No. 2303)** by the BIR if it is not yet registered, to provide the Revenue District Office (RDO) having jurisdiction over the place where the operation of the privilege store is held with the list of the names, residence addresses, stall, **slot or unit** number in the privilege store outlet, location site of the privilege store outlet, individual Taxpayer Identification Number (TIN) of persons/entities participating in the event **or exhibit** and the specific dates and duration when such operations shall be conducted. **The exhibitor/organizer shall comply with the reportorial requirement for establishments leasing or renting out spaces for commercial activities as prescribed by RR 12-2011. The Lessees Information Statement (Annex "A") shall be filed with the RDO having jurisdiction over the place such privilege stores have been set up or exhibit/event is to be held on or before the start of the exhibit/event.** Participating sellers-retailers with regular or permanent places of business and which are registered already with the BIR **must** submit a copy of the COR **(BIR Form No. 2303)** to the exhibitor/organizer.

(4) **Obligation to Ensure Presentation of TIN, Presentation of Official Receipts/Sales or Commercial Invoice, Submission of Information Statement, the Remittance of Actual Withholding**

Tax Liabilities by the Lessees/Tenants Considered as Regular Taxpayers. – Every organizer or exhibitor is obliged to demand from the lessees/tenants **classified under Section 2 as regular taxpayers of these Regulations,** the presentation of TIN, **presentation of Official Receipts/Sales or Commercial Invoice, submission of Information Statement on Privilege Store Activities (Annex B) indicating the duration (total number of days) of business operations,** and proof of payment of actual withholding tax due on its income payment. **In the case of those classified as privilege store operator, the organizer or exhibitor shall require the presentation of TIN.**

(5) Obligation to Keep Books of Accounts and Issue Receipts – Every exhibitor/organizer shall keep a journal and a ledger or their equivalents provided that those whose quarterly sales, earnings, receipts or output do not exceed fifty thousand pesos (Php50,000.00) may keep and use simplified set of bookkeeping records wherein all transactions and results of operations are shown and from which all taxes due may readily and accurately be ascertained and determined any time of the year pursuant to Section 232 of the Tax Code, as amended. Such exhibitor/organizer shall issue duly registered receipts to cover payments made as rentals or other fees which shall show the name, business style, if any, TIN and address of the privilege store operator/lessee pursuant to Section 237 of the Tax Code, as amended.

(6) Obligation to provide Cash Register Machines/Point of Sale Machines or provide its own Official Receipts/ Sales or Commercial Invoices for the use of Privilege Stores Operators who are not registered as Regular Taxpayers Engaged in Trade or Business, or BMBE - Every Exhibitor/Organizer shall provide (1) Cash Register Machines/Point of Sale (CRM/POS) for each privilege store operator, or (2) centralized CRM/POS/Payment Centers, or (3) allow the use of its own manual Official Receipts/Sales or Commercial Invoices for the exclusive use by its Privilege Store Operators to monitor the sales of the latter (sample format in Annex "C").

For purposes of these Regulations, the relationship between the Exhibitor/Organizer and the Privilege Store Operators who are not registered as regular taxpayer engaged in trade or business, or BMBE, shall be that of consignor-consignee relationship. The consignee, for these purposes, is only acting as "pass through entity" where the income on the sale is ultimately taxed to the consignor.

(7) Obligation to ensure the submission of List of Sales within Five (5) Days after the privilege store operation- Every

exhibitor/organizer is obliged to submit the List of Sales within five (5) days after the privilege store operation in order for the exhibitor/organizer to reconcile the sales in its CRM/POS.

The reconciliation of the report on CRM/POS and the List of Sales from the privilege store operators shall be included in the report to be submitted to the BIR for later audit.

(8) <u>Obligation to Report to the Bureau of Internal Revenue Non-Compliance by the Privilege Store Operators/Lessees of their Obligations and Responsibilities</u>. - Every exhibitor/organizer is obliged to monitor the compliance by privilege store operators/tenants/lessees with their responsibilities and obligations as prescribed in these Revenue Regulations. The authority of the organizer to monitor privilege stores' compliance with these Regulations, with the corresponding power to revoke the lease agreement, shall form part of the Contract of Lease executed between the parties herein mentioned. Violations and sanctions imposed on privilege store operators shall be reported to the Bureau of Internal Revenue. **The Report on Non-Compliance of Privilege Store Operators/Tenants/Lessees (Annex "D"), if applicable, shall be submitted to the RDO having jurisdiction over the place where such privilege stores have been set up within ten (10) days from the start of the exhibit/event.**

(B) Obligations of Privilege Store Operators. –

(1) Obligation to Deduct and Withholding the Expanded Withholding Tax on Rental Payments to Exhibitor/Organizer for Sub-Leased Spaces or Lessor/Owner of Leased Property. - Every privilege-store operator shall, upon accrual or payment of rentals of sub-leased spaces to the exhibitor/organizer or lessor/owner of leased property, withhold tax on rentals at the rate of five percent (5%) of the gross rental payments as prescribed in Revenue Regulations No. 2-98, as amended. The withholding tax shall be remitted/paid on or before the 10th day of the following month using the Monthly Remittance Return of Creditable Income Taxes Withheld (Expanded) [BIR Form No. 1601E], except for taxes withheld for the month of December, which shall be filed on or before January 15 of the following year.

If the privilege-store operator does not yet have a TIN, then, it must apply for a TIN with the RDO having jurisdiction over the privilege-store activity/event.

(2) **Obligation to File Income Tax Returns.** – Every privilege store operator shall report his/her income in the Annual Income Tax Return (BIR Form No. **1700)** to be filed on or before April 15 of the year following the calendar year the income was earned.

(3) **Obligation to Submit Information Statement on Privilege Store Activities.** – Persons who sell their goods/services through privilege stores shall submit an Information Statement on Privilege Store Activities **(Annex "B")** on or before the first day on which the privilege store shall operate indicating the inclusive dates of business operations, name of exhibitor/organizer, TIN of exhibitor/organizer/lessor, name of event/exhibit, address/venue of the event/exhibit and duration of operations in any given year.

(4) **Obligation to Keep Books of Accounts and Issue Receipts/Sales or Commercial Invoices –** Persons who sell their goods/services through privilege stores shall keep a journal and a ledger or their equivalents provided that those whose quarterly sales, earnings, receipts or output do not exceed fifty thousand pesos (Php50,000.00) may keep and use simplified set of bookkeeping records wherein all transactions and results of operations are shown and from which all taxes due may readily and accurately be ascertained and determined any time of the year pursuant to Section 232 of the Tax Code, as amended."

The Privilege Store Operators shall issue the Official Receipts/Sales or Commercial Invoices provided by the Exhibitor/Organizer either thru: (1) Cash Register Machines/Point of Sales (CRM/POS), or (2) centralized CRM/POS/Payment Centers, or (3) manual Official Receipts/Sales or Commercial Invoices (sample format in Annex "C").

(5) **Obligation to Submit List of Sales on Privilege Store Activities to the Exhibitor/Organizer.** – Persons who sell their goods/services through privilege stores shall submit List of Sales on Privilege Store Activities to the Exhibitor/Organizer within five (5) days after the privilege store operation.

(C) Obligations of Lessees/Tenants Not Classified as "Privilege Stores Operators" (Regular Taxpayers) –

(1) **Obligation to Deduct and Withhold the Expanded Withholding Tax on Rental Payments to Exhibitor/Organizer for Sub-Leased Spaces or Lessor/Owner of Leased Property. –** Every lessee/tenant shall, upon accrual or payment of rentals of sub-leased

spaces to the exhibitor/organizer or lessor/owner of leased property, withhold tax on rentals at the rate of five percent (5%) as prescribed in RR 2-98, as amended, which shall be remitted/paid on or before the 10th day of the following month using the Monthly Remittance Return of Creditable Income Taxes Withheld (Expanded) [BIR Form No. 1601E] except for taxes withheld for the month of December of each year, which shall be filed on or before January 15 of the following year pursuant to RR 2-98, as amended. For those who would be filing using the Electronic Filing and Payment System (EFPS), the regulations pertaining to EFPS filers shall apply.

(2) Obligation to Keep Books of Accounts and Issue Receipts/Sales or Commercial Invoices – Persons who sell their goods/services through privilege stores shall keep a journal and a ledger or their equivalents provided that those whose quarterly sales, earnings, receipts or output do not exceed fifty thousand pesos (Php50,000.00) may keep and use simplified set of bookkeeping records wherein all transactions and results of operations are shown and from which all taxes due may readily and accurately be ascertained and determined any time of the year pursuant to Section 232 of the Tax Code, as amended; and shall for each sale or transfer of merchandise or for services rendered valued at twenty five pesos (Php25.00) or more, issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service pursuant to Section 237 of the Tax Code, as amended."

(3) Obligation to File Income, Withholding, Business (Percentage or Value Added) and Other Tax Returns, and Pay the Correct Amount of Taxes. - Every person who participates in exhibits/events and sells goods/services is obliged to include the sales/receipts from such exhibits/events in his/its actual sales/receipts reported in his/its Quarterly/Annual Income Tax Returns (BIR Form Nos. 1701Q/1702Q or BIR Form Nos. 1701/1702) and Monthly Percentage Tax Return (BIR Form No. 2551M) or Monthly Value Added Tax Declarations/Quarterly Value Added Tax Returns (BIR Form Nos. 2550M/2550Q), and/or file the other tax return/s, if applicable, such us but not limited to the Monthly Remittance Returns of Income Taxes Withheld on Compensation (BIR Form No. 1601C), Monthly Remittance Returns of Final Income Taxes Withheld (BIR Form No. 1601F), etc. and pay the corresponding correct amount of taxes.

(4) Obligation to File Other Information Returns – Every person who participates in exhibits/events and sells goods/services is obliged to include the amounts of creditable tax/es withheld on rental payments

made or accrued in the Annual Information Return of Creditable Taxes Withheld (Expanded)/Income Payments Exempt from Withholding Tax (BIR Form No. 1604E) which shall be filed on or before March 1 of the year following the calendar year the exhibit/s or event/s is/are held in which the rental payments subject to expanded withholding tax are paid or accrued. Other Information Returns regularly filed by the person who participates in exhibits/events, if applicable, shall likewise be filed accordingly.

Section 4. Cessation as Privilege Store.

A privilege store operator whose business operation/s is more than fifteen (15) days ceases to be as such and shall thenceforth be governed by existing revenue laws and regulations applicable to regular taxpayers.

Section 5. Implementing Guidelines.

For purposes of these Regulations, the following guidelines shall be observed:

(a) The RDOs shall be primarily responsible in monitoring compliance by the organizer/exhibitor of his/**its** obligations imposed herein and the activities of any privilege store operating within their respective jurisdictions, as well as in validating the list furnished by the exhibitor/organizer with respect to such information regarding the identity of the participants, the number of participants, and the duration of the exhibit. **The validation of the participants as reported by the exhibitor/organizer shall be made through the BIR's existing registration system.**

(b) Based on the list provided by the exhibitor/organizer, the RDO shall recommend the issuance by the Regional Director of Mission Order/s directing the deployment of Revenue Officers (ROs) who shall be in-charged in physically checking compliance by the exhibitor/organizer, privilege store operators and regular taxpayers of their obligations as enumerated above. **Verification should likewise be done on compliance of taxpayer's obligation of filing the regular returns (i.e. income tax returns, withholding tax returns, percentage or value added tax returns), if the taxpayer is registered within its jurisdiction. However, for those privilege store operators registered outside its jurisdiction, the list of privilege store operators together with a copy of the Lessees Information Sheet (Annex "A") submitted by the exhibitor/organizer, and the Information Statement on Privilege Store Activities (Annex "B") and List of Sales submitted by privilege store operators shall be submitted to the Assistant Commissioner, Client Support Service, Attn.: The Chief, Taxpayer Service Programs and Monitoring Division (TSPMD), copy furnished the concerned RDO having jurisdiction over these taxpayers.**

(c) **The RCOs/ROs assigned shall prepare monthly reports indicating therein the names of privilege store organizers/operators who have not complied with the provisions of these Regulations. The report shall likewise be submitted to the RDO, with a copy furnished to the Regional Director. All RDOs shall submit the Monthly Non-Compliance Report on Privilege Store Operators & Other Lessees / Tenants (Annex "E") together with the action/s taken on a monthly basis on or before the tenth (10th) day of the following month to the Assistant Commissioner, Client Support Service, Attn.: The Chief, Taxpayer Service Programs and Monitoring Division (TSPMD), through the Regional Director.**

(d) **The ROs shall likewise be in-charged of establishing a profile of privilege store operators/sellers of goods/services who have not yet been registered with the BIR including the profile of exhibitors/organizers. Their addresses must be obtained so that the identity of these taxpayers may be endorsed to the concerned RDO who shall take the necessary action to ensure registration and the collection of the appropriate fees and taxes due from them.**

Section 6. Repealing Clause. —

All existing rules, regulations (RR Nos. 16-2003 and 24-2003), and other issuances, or portions thereof, that are inconsistent with the provisions hereof are hereby modified, repealed or revoked accordingly.

Section 7. Effectivity Clause. —

The provisions of these Regulations shall take effect immediately after fifteen (15) days following publication in a newspaper of general circulation in the Philippines.

(Original Signed)
CESAR V. PURISIMA
Secretary of Finance

Recommending Approval:

(Original Signed)
KIM S. JACINTO - HENARES
Commissioner of Internal Revenue