REPUBLIKA NG PILIPINAS
KAGAWARAN NG PANANALAPI
KAWANIHAN NG RENTAS INTERNAS

February 16, 2005

REVENUE REGULATIONS NO. 3-2005

SUBJECT : Rules and Regulations Implementing Executive Order No. 398 (EO 398) and Requiring Timely and Complete Payment of Taxes as a Precondition for Entering Into and as a Continuing Obligation in Contracts with Government

TO : All Internal Revenue Officers and Others Concerned

1.0 Objectives

1.1 Ensure that only tax compliant entities are allowed to enter into contracts with government, its departments, agencies and instrumentalities for the supply of goods and services.

1.2 Provide a simple and convenient way by which tax compliant applicants can obtain the required documents and comply with the submission requirements of EO 398.

2.0 General Provisions

2.1 Latest Tax Returns as Pre-Condition for Participation.

2.1.1 EO 398 provides. - "All persons, natural or juridical, local or foreign, desiring to enter into or participate in any contract with the government, its departments, bureaus, offices and agencies, including state universities and colleges, government-owned and/or controlled corporations, government financial institutions and local government units shall, as a pre-condition, submit, along with their proposal and/or bid, a copy of their latest income tax and business tax returns."

2.1.2 The above returns must be duly stamped and received by BIR and duly validated with the tax payments made thereon except in cases provided for in 4.2.2 below.

2.1.3 Returns filed with AABs or thru EFPS with corresponding reference numbers shall be deemed duly stamped and received by the Bureau of Internal Revenue (BIR).

2.2 Tax Clearance

Also part of the submission for the bid/offer to be accepted for evaluation is the Tax Clearance from the BIR described in 3.4, 4.4 and 4.5 below.

2.3 Summary List of Contracts and Payments Made to Contractors

EO 398 provides. - "All departments, bureaus, offices and agencies, including state universities and colleges, government-owned and/or controlled corporations, government financial institutions and local government units, shall regularly furnish the Bureau of Internal Revenue with the names of private contracting parties that they have contracted with, as well as the amount of payments made to these private contracting parties, to enable the Bureau of Internal Revenue to scrutinize full and timely payment of taxes."

To comply with the above, the concerned entities must submit via EFPS BIR Form 1600 (a copy of which is attached herewith and made an integral part of these Revenue Regulations), with the Alphabetical list of Payees completely filled up for all contracts for the period of the report.

3.0 Definitions

3.1 Electronic Filing and Payment System (EFPS)

The internet-based system of the BIR for the paperless filing of tax returns, the payment of taxes due thereon, and the submission of information such as Summary List of Sales and Purchases. This system is available through the BIR Portal.

3.2 Latest Income Tax Return (ITR)

For participants already with an Annual ITR, latest ITR shall refer to the ITR for the preceding Tax Year be it on a calendar or fiscal year. For new establishments which, therefore, have no annual ITR yet, it shall refer to the most recent quarter's ITR.

3.3 Latest Business Tax Return

Refers to the Value Added Tax (VAT) or Percentage tax returns covering the previous six (6) months. For those with less than six (6) months of operations, this refers to the monthly business tax returns filed to date.

3.4 Tax Clearance

Refers to the clearance issued by the Collection Enforcement Division (CED) attesting that the taxpayer has no outstanding Final Assessment Notice and/or delinquent account.

4.0 Specific Provisions

4.1 Mandatory EFPS Filing

Effective 1 April 2005, all prospective participants to any government procurement of goods and services are mandated to file their income and business tax returns and other required information electronically using the Electronic Filing and Payment System (EFPS).

4.2 Acceptable Tax Return Submissions for Participation in Government Procurement

4.2.1 Effective 1 May 2005, only tax returns filed thru EFPS will be accepted as the required submission under Section 1 of EO 398.

4.2.2 Interim Procedure.- From the date of effectivity of these Regulations up to April 30, 2005, Non-EFPS filed tax returns and payment documents may be submitted as compliance to para 2.1. Provided that these documents must first be presented to the Revenue District Office with jurisdiction over the taxpayer for authenticity check and stamping.

4.3 Processing of the Tax Return by the Procuring Government Entity

4.3.1 For EFPS generated or printed Tax Returns, the documents must be checked for authenticity either by telephone with the BIR Contact Center Tel 981-8888 or through the BIR Portal www.my.bir.gov.ph.

4.3.2 For those submitted under Section 4.2.2, copies of the Non-EFPS generated tax return must be faxed to BIR Contact Center with a covering letter stating the name of the procuring government agency, the name of the responsible procurement officer, and such officer's telephone/fax numbers.

4.4 Tax Clearance

4.4.1 Requests for Tax Clearance by the bidding taxpayers must be in writing and contain the following information: the name of the taxpayer requesting the tax clearance, its tel/fax number, its taxpayer identification number (TIN), the revenue district office with jurisdiction over the taxpayer, .the name of the Procuring Government Agency, the name of the responsible procurement officer, and his tel/fax number.

4.4.2 The application must be addressed to the Division Head, Collection Enforcement Division, BIR National Office Telefax 928-7466.

4.5 Processing of Tax Clearance by Procuring Government Agency

A Tax Clearance obtained under paragraph 4.4 above must be verified for authenticity by telephone with the BIR Contact Center or through the BIR Portal which will have an updated list of participating firms with Tax Clearances.

5.0 These regulations shall take effect fifteen (15) days after publication in any newspaper of general circulation.

(Original Signed)
CESAR V. PURISIMA
Secretary of Finance

Recommending Approval:

(Original Signed)
GUILLERMO L. PARAYNO, JR.
Commissioner of Internal Revenue