REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

February 19, 2008

REVENUE REGULATIONS NO. 4-2008

SUBJECT : AMENDING THE VENUE FOR THE PAYMENT OF CAPITAL GAINS TAX, CREDITABLE WITHHOLDING TAX AND DOCUMENTARY STAMP TAXES DUE ON ONEROUS TRANSFERS OF REAL PROPERTIES OWNED BY TAXPAYERS CLASSIFIED AS LARGE TAXPAYERS PURSUANT TO REVENUE REGULATIONS NO. 1-98, AS AMENDED, THEREBY AMENDING FOR THIS PURPOSE PERTINENT PROVISIONS OF REVENUE REGULATIONS NO. 8-98.

TO : ALL INTERNAL REVENUE OFFICERS AND OTHERS CONCERNED.

SECTION 1. SCOPE. — Pursuant to Section 244 of the 1997 National Internal Revenue Code, as amended, in relation to Sections 57(A), 57(B) and 196 thereof, these Regulations are hereby promulgated in order to amend pertinent provisions of Revenue Regulations No. 8-98 which amended Revenue Regulations No. 2-98 and other relevant regulations and issuances relative to the venue for the filing of returns (i.e., capital gains tax(CGT) , creditable withholding tax(CWT), and documentary stamp tax(DST)) and payment of taxes due on onerous transfers of real properties owned by taxpayers classified as large taxpayers under Revenue Regulations No. l-98, as amended.

SEC. 2. POLICY STATEMENT. — These Regulations aim to provide an efficient service to large taxpayers with respect to their real estate transactions by transferring the venue for filing the tax returns and payment of the tax(CGT/CWT/DST), including securing of Tax Clearance Certificate (TCL)/ Certificate Authorizing Registration (CAR) to the concerned Large Taxpayers Services (LTS)' Office (i.e., LTDO, LTAID I, LTAID II) where the taxpayer's head office is registered rather than these returns and payment on one-time transactions be handled by the Revenue District Office.

By making the venue for payment of taxes of large taxpayers an exception to the general rule espoused in Revenue Regulations No. 8-98 prescribing the filing of returns and the payment of taxes due thereon to the Revenue District Office (RDO) where the property being transferred is located, the collection performance of the Revenue District Offices as well as the LTS Office can now be gauged more realistically inasmuch as the significant tax collections accruing to real estate transactions of these large taxpayers are now effectively consolidated and fully accounted for by the very same LTS Office having jurisdiction over their principal place of business.

SEC. 3 . TIME AND PLACE OF PAYMENT OF CAPITAL GAINS TAX (CGT) AND DOCUMENTARY STAMP TAX (DST) ON THE SALE, EXCHANGE OR OTHER MODE OF ONEROUS DISPOSITION OF REAL PROPERTIES CLASSIFIED AS CAPITAL ASSETS. — Within thirty (30) days following each sale or disposition, the Capital Gains Tax (CGT) (BIR Form No. 1706) Return shall be filed by the seller or buyer and payment made to an Authorized Agent Bank (AAB) located within the Revenue District Office (RDO) having jurisdiction over the place where the property being transferred is located.

The corresponding documentary stamp tax return shall be filed within five (5) days after the close of the month when the taxable document was made, signed, accepted or transferred, and the tax thereon shall be paid at the same time the aforesaid return is filed with the Authorized Agent Bank (AAB) of the RDO having jurisdiction over the place where the property being transferred is located.

Provided, however, that in cases where the seller thereof is a large taxpayer, the venue for the filing of the CGT return and payment of CGT as well as the DST Return and DST due thereon shall be with the AAB of the concerned LTS Office where said large taxpayer-seller is registered.

This above rule on the venue in the filing of the returns and payment of taxes on real estate onerously disposed shall likewise apply in cases of taxable foreclosure sales.

SEC. 4. TIME AND PLACE OF PAYMENT OF CREDITABLE WITHHOLDING TAX AND DST ON THE SALE, EXCHANGE OR OTHER MODE OF ONEROUS DISPOSITION OF REAL PROPERTIES CLASSIFIED AS ORDINARY ASSETS. —

Creditable withholding taxes deducted and withheld by the withholding agent/buyer on the sale, transfer or exchange of real property classified as ordinary asset, shall be paid by the withholding agent/buyer upon filing of the return with the Authorized Agent Bank (AAB) located within the Revenue District Office (RDO) having jurisdiction over the place where the property being transferred is located within ten (10) days following the end of the month in which the transaction occurred subject, however, to the

rules prescribed by Electronic Filing and Payment System(EFPS) regulations in case the taxpayer is an EFPS taxpayer.

The corresponding documentary stamp tax return shall be filed within five (5) days after the close of the month when the taxable document was made, signed, accepted or transferred, and the tax thereon shall be paid at the same time the aforesaid return is filed with the Authorized Agent Bank (AAB) of the RDO having jurisdiction over the place where the property being transferred is located.

Provided, however, that in cases where the seller thereof is a large taxpayer, the venue for the filing of the creditable withholding tax return (BIR Form 1606) and payment of taxes due thereon as well as the DST Return (Form No. 2000-OT) and DST due thereon shall be with the AAB of the concerned LTS Office where said large taxpayer-seller is registered.

In the case of real estate development projects under a joint venture agreement where one of the co-venturers is a large taxpayer and the other is a non-large taxpayer, the venue for the payment of taxes accruing to the sale or onerous disposition to third parties of their owned respective portion of the real estate shall be in accordance with the provisions herein prescribed. Thus, the taxes due on the sale or disposition of the shares/units allocated to the co-venturer which is a large taxpayer, shall be paid and the corresponding returns thereof shall be filed with the AAB of the concerned LTS Office where said large taxpayer is registered. On the other hand, the returns required and the taxes accruing on the sale or disposition of the units allocated to the other co-venturer that is a non-large taxpayer shall be filed and paid with the AAB of the RDO having jurisdiction over the place where the property being transferred is located.

This above rule on the venue in the filing of the returns and payment of taxes on onerous transfers of real estate shall likewise apply to taxable foreclosure sales.

SEC. 5. ISSUANCE OF TAX CLEARANCE CERTIFICATE (TCL)/ CERTIFICATE AUTHORIZING REGISTRATION (CAR). —

(1) Where the Seller of Real Property is a Non-Large Taxpayer. - Upon presentation of the Capital Gains Tax Return or Creditable Withholding Tax Return and Documentary Stamp Tax Return with a bank validation evidencing full payment of the capital gains tax or the creditable withholding tax and documentary stamp tax due on the sale, transfer, barter, exchange or other onerous disposition of real property classified as capital or ordinary asset, as the case may be, and upon full compliance with the documentary requirements by the concerned taxpayer, the Revenue District Officer (RDO) of the revenue district where the property being transferred is located, after having conducted ocular inspection of the real property, in certain instances, shall issue the corresponding Tax Clearance (TCL) or Certificate Authorizing Registration (CAR) for the registration of the real property in favor of the transferee.

(2) Where the Seller of Real Property is a Large Taxpayer. — Upon presentation of the Capital Gains Tax Return or Creditable Withholding Tax Return and Documentary Stamp Tax Return with a bank validation evidencing full payment of the capital gains tax or the creditable withholding tax and documentary stamp tax due on the sale, transfer, barter, exchange or other onerous disposition of real property classified as capital or ordinary asset, as the case may be, the concerned LTS Office having jurisdiction over the principal office of the large taxpayer-seller shall issue the corresponding Tax Clearance (TCL) and the Certificate Authorizing Registration (CAR) for the registration of the real property transaction in favor of the transferee, subject, however, to the following rules on ocular inspection :

(a) If the real property being transferred is located in Metro Manila or in Metro Cebu, including chartered cities, the ocular inspection shall be conducted by the concerned LTS Office, or LTDO Cebu, for properties located in Cebu, before the issuance of the TCL/CAR. The CAR as issued shall no longer require the countersignature of the RDO where the real property is located for purposes of presentation to the Register of Deeds to effect the transfer;

(b) If the real property being transferred is located outside Metro Manila or Metro Cebu:

(b.1) If there is an Excise Tax Area (EXTA) personnel near the location of said property, such EXTA personnel shall conduct the ocular inspection on the real properties being transferred not only by excise taxpayers but by regular LT and LTDO taxpayers. Such ocular inspection shall be conducted before the issuance of the TCL/CAR by the concerned LTS Office. The CAR as issued shall no longer require the countersignature of the RDO where the real property is located for purposes of presentation to the Register of Deeds to effect the transfer;

(b.2) If there is no EXTA personnel assigned near the location of the said property, the TCL/CAR shall first be issued by the concerned LTS Office on the basis of the documents submitted by the taxpayer.

Before the CAR can be presented to the Register of Deeds to effect the transfer, the CAR shall have to be countersigned by the RDO having jurisdiction over the place where the property being transferred is located not later than five (5) days from receipt thereof at which same period the RDO should have already conducted an ocular inspection on subject real property to verify and validate the actual condition thereof.

Inaction on the part of the RDO to conduct an ocular inspection within the prescribed 5-day period shall render his act of countersigning

the CAR ministerial but, this, nevertheless does not preclude him from conducting such inspection on the real property subsequent to the release of the CAR authorizing the registration of said real property in favor of the transferee. Any additional tax collected by the RDO arising from the verification made on the real property shall be properly credited as a collection accruing to such District Office.

SEC. 6. TRANSITORY PROVISION. — The following rules shall apply with respect to real estate sale transactions of large taxpayers prior to the effectivity of these Regulations:

(1) For real estate sale transactions of large taxpayers on "cash basis" or "deferred-payment sale not on installment plan" basis, (i.e., payments in the year of sale exceed 25% of the selling price) where the capital gains tax or expanded withholding tax as well as documentary stamp tax returns have already been filed with and taxes due thereon, if any, have already been paid to the RDO where the real property is located, the corresponding TCL/CAR shall remain to be processed and issued by said RDO even upon the issuance of these Regulations;

(2) For real estate sale transactions of large taxpayers on installment basis:

(a) Where there is already full payment of the full consideration of the real property bought under installment basis, and the corresponding returns have already been filed and taxes due thereon, if any, have already been fully paid to the RDO where the real property is located, the corresponding TCL/CAR shall remain to be processed and issued by said RDO even upon the issuance of these Regulations;

(b) Where there is no full payment yet of the full consideration of the real property bought under installment basis as of the effectivity of these Regulations, the remaining installment payment of taxes due as of the effectivity hereof shall begin to accrue to the concerned LTS Office, which shall be responsible for processing and issuing the TCL/CAR.

Pertinent documents submitted as well as tax returns relative to prior tax payments made to the RDO shall then be endorsed by said RDO to concerned LTS Office which shall consolidate the same with those filed with and paid to its Office for purposes of determining whether there has been full payment of the taxes due and full compliance with the documentary requirements prior to the issuance of the TCL/CAR.

SEC. 7. REPEALING CLAUSE. — The provisions of any revenue regulations, revenue memorandum order, revenue memorandum circular or any other issuance of the Bureau of Internal Revenue inconsistent with these Regulations are hereby repealed, amended, or modified accordingly.

SEC. 8. EFFECTIVITY CLAUSE. — These Regulations shall take effect after fifteen (15) days following publication in any newspaper of general circulation.

(Original Signed)
MARGARITO B. TEVES
Secretary of Finance

Recommending Approval:

(Original Signed)
LILIAN B. HEFTI
Commissioner of Internal Revenue