REPUBLIC OF THE PHILIPPINES
DEPARTMETN OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

March 16, 2009

REVENUE REGULATIONS NO. 5 - 2009

SUBJECT : REVERTING THE VENUE FOR THE FILING OF RETURNS AND PAYMENT OF CAPITAL GAINS TAX, CREDITABLE WITHHOLDING TAX AND DOCUMENTARY STAMP TAX DUE ON SALE, TRANSFER OR EXCHANGE OF REAL PROPERTY OF LARGE TAXPAYERS TO THE PLACE WHERE THE PROPERTY IS LOCATED

TO : ALL INTERNAL REVENUE OFFICERS AND OTHERS CONCERNED

SECTION 1. SCOPE. – Pursuant to Section 244 of the National Internal Revenue Code of 1997, as amended, in relation to Sections 27(A), 27(D)(5), 57(A), 57(B), 196 and 245(j) thereof, these Regulations are hereby promulgated in order to revert the venue for the filing of returns (i.e., capital gains tax returns, creditable withholding tax returns, and documentary stamp tax returns) and payment of taxes due on onerous transfers of real properties owned by large taxpayers to the Authorized Agent Banks (AABs) located within the Revenue District Office (RDO) having jurisdiction over the place where the property being transferred is located.

SEC. 2. POLICY STATEMENT. – Pursuant to the provisions of Revenue Regulations No. 8-98, the venue for the filing of returns and payment of taxes due on onerous transfers of real properties for all taxpayers, including large taxpayers, is generally determined by the place where the property being transferred is located.

Sometime last year, Revenue Regulations No. 4-2008 was promulgated effectively amending Revenue Regulations No. 8-98 but only in respect to the venue for the filing of returns and payment of taxes of real estate transactions of large taxpayers. This amendment was envisioned to improve the efficiency in servicing the needs of the large taxpayers by centralizing the processing of their real estate transactions in the concerned Large Taxpayers Office where they are registered, thereby doing away with the procedure of having to secure the Certificate Authorizing Registration (CAR)/Tax Clearance Certificate (TCL) from the various RDOs where the respective real properties are located.

However, during implementation and with the recent delisting and enlisting of taxpayers who are to be classified as large taxpayers, it has been recognized that such differing rule has caused confusion to those who have been de-classified as large taxpayers, as well as those who have be recently enlisted as such.

In order to provide uniformity in the processing of real estate transactions of taxpayers, whether large or non-large taxpayers, and that ocular inspection of the subject real property can be performed expediently prior to the issuance of the CAR/TCL, the venue for the filing of tax returns and payment of the taxes due thereon (i.e., CGT/CWT/Regular Income Tax/DST) on real properties owned by large taxpayers, including securing of CAR/TCL, is hereby reverted to the jurisdiction of the concerned RDO where the real property concerned is located.

SEC. 3. TIME AND PLACE OF PAYMENT OF CAPITAL GAINS TAX (CGT) AND DOCUMENTARY STAMP TAX (DST) ON THE SALE, EXCHANGE OR DISPOSITION OF REAL PROPERTIES CLASSIFIED AS CAPITAL ASSETS. - Within thirty (30) days following each sale, exchange or disposition of lands and/or buildings which are not actually used in the business of a corporation and are treated as capital assets, the Capital Gains Tax Return (BIR Form No. 1706) shall be filed by the seller or the buyer and payment of taxes made to an AAB located within the RDO having jurisdiction over the place where the property being transferred is located based on the gross selling price or fair market value as determined in accordance with Section 6(E) of the Tax Code, whichever is higher, of such lands and/or buildings.

The corresponding Documentary Stamp Tax Return (BIR Form No. 2000-OT) 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 due thereon shall be paid at the same time the aforesaid return is filed with the AAB having jurisdiction over the place where the property being transferred is located based on the consideration contracted to be paid for such realty or on its fair market value determined in accordance with Section 6(E) of the Tax Code, whichever is higher.

The above rules apply whether the seller/transferor thereof is a large taxpayer or a non-large taxpayer.

These rules on the venue for the filing of the returns and payments of taxes due on real properties onerously disposed shall likewise apply in cases of taxable foreclosure sales.

SEC. 4. TIME AND PLACE OF PAYMENT OF CREDITABLE WITHHOLDING TAX (CWT) AND DOCUMENTARY STAMP TAX (DST) ON THE SALE, EXCHANGE OR DISPOSITION OF REAL PROPERTIES CLASSIFIED AS ORDINARY ASSETS. - Creditable withholding taxes (CWT) 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 CWT Return (BIR Form No. 1606) with the AAB located within the 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 specific rules prescribed by RR 2-98, as amended, and the rules prescribed under the EFPS regulations, in case the taxpayer is an EFPS taxpayer.

The corresponding Documentary Stamp Tax Return (BIR Form No. 2000-OT) 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 due thereon shall be paid at the same time the aforesaid return is filed with the AAB having jurisdiction over the place where the property being transferred is located based on the consideration contracted to be paid for such realty or on its fair market value determined in accordance with Section 6(E) of the Tax Code, whichever is higher.

The above rules apply whether the seller/transferor thereof is a large taxpayer or a non-large taxpayer.

These rules on the venue for the filing of the returns and payments of taxes due on real properties onerously disposed shall likewise apply in cases of taxable foreclosure sales.

SEC. 5. ISSUANCE OF CERTIFICATE AUTHORIZING REGISTRATION (CAR) / TAX CLEARANCE CERTIFICATE (TCL). — 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 expanded creditable withholding tax and documentary stamp tax due on the sale, transfer, barter, exchange or other disposition of real property classified as capital or ordinary asset, as the case may be, the RDO of the revenue district office where the property being transferred is located shall issue the corresponding Certificate Authorizing Registration (CAR) or Tax Clearance Certificate (TCL) for the registration of the real property in favor of the transferee.

In the case of sale or transfer of ordinary assets, it shall be the responsibility of the RDO issuing the CAR/TCL to notify the RDO having jurisdiction over the place of business of the seller to conduct an immediate post-audit of the Quarterly Income Tax Return and the Quarterly VAT Return of the seller to ensure that correct taxes (i.e., income tax, value added tax (if applicable), and documentary stamp tax) have been fully paid on that sale of real properties considered as ordinary assets of the company.

Furthermore, the Revenue Office in the RDO issuing the CAR/TCL shall indicate on the reverse side of all the copies of the document of sale or exchange or transfer the details of information indicated in the CAR, to wit: CAR Number, Date of CAR, Title Number of the Property, Classification of the Property, Location of the Property, Area of the Property, Selling Price, Fair Market Value, Type of Taxes Paid (i.e., whether capital gains tax or expanded withholding tax, documentary stamp tax, Amount of Taxes Paid, the Official Receipt Number/Validation Number and the Date of the Official Receipt/Date of Payment/Date of Validation. Thus, before the CAR/TCL is released to the taxpayer, all the copies of the document of sale/exchange or transfer shall first be

presented to the assigned revenue officers who shall indicate at the back of said documents the information contained in the CAR/TCL as herein required.

The CAR/TCL shall be signed by the Revenue District Officer of the district having jurisdiction over the place where the property is located. The CAR/TCL as issued by the RDO shall have a validity period of one (1) year for purposes of presenting the same to the Register of Deeds. In case of failure to present the same to the Register of Deeds within the one-year validity period, the same may still be revalidated, but the total period of validity cannot exceed two years counted from the date of issuance of the CAR/TCL. Revalidation shall be done by stamping the phrase *"Revalidated on _____, to expire on _____"*, after validating the authenticity and validity of the old CAR/TCL sought to be revalidated. Thus, given the periods set herein, the CAR/TCL, upon issuance, shall have to be presented to the Register of Deeds within a maximum period of not more than two (2) years; otherwise, the CAR/TCL shall be deemed permanently expired and therefore of no effect. New returns and proof of tax payments shall be needed to produce a new CAR/TCL.

In no instance shall the Register of Deeds honor a CAR/TCL with erasures or alterations.

SEC. 6. VALIDITY OF REVENUE REGULATIONS NO. 24-2002. – The provisions of Revenue Regulations No. 24-2002 prescribing the information to be periodically submitted by the Land Registration Authority (LRA), the Register of Deeds and the Assessor's Office to the Bureau of Internal Revenue relative to the transfers of real properties; the specific information that must be annotated, either by the RDO or the Register of Deeds, to certain documents; and the manner of issuance, recording and monitoring of the Certificate Authorizing Registration (CAR), in order to ensure that all internal revenue taxes due on transfers of real property have been paid and remitted to the Government, as well as the responsibility of the Register of Deeds as provided for in the said Regulations, shall all remain valid and effective.

SEC. 7. TRANSITORY PROVISION. –The following rules shall apply with respect to real estate sale transactions of large taxpayers prior to the effectivity of these Regulations:

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 creditable 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 concerned LTS Office, the corresponding CAR/TCL shall remain to be

processed and issued by the said LTS Office even upon issuance of these Regulations;

(2) For real estate sale transactions of large taxpayers on "*installment basis," (i.e., payments in the year of sale do not exceed 25% of the selling price):*

(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 concerned LTS Office, the corresponding CAR/TCL shall remain to be processed and issued by the said LTS Office even upon 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 RDO where the property is located, 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 concerned LTS Office shall then be endorsed by said concerned LTS Office to the RDO where the property is located, which shall consolidate the same with those filed with and paid to its District Office for purposes of determining whether there has been full payment of the taxes due and full compliance with the documentary requirements laid down by law and regulations prior to the issuance of the CAR/TCL.

SEC. 8. REPEALING CLAUSE. - All revenue rules and regulations and parts thereof inconsistent with the provisions of these Regulations are hereby amended, modified, or revoked accordingly.

SEC. 9. EFFECTIVITY CLAUSE. - These Regulations shall take effect fifteen (15) days after publication in any newspaper of general circulation.

(Original Signed)
MARGARITO B. TEVES
Secretary of Finance

Recommending Approval:

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