**REPUBLIC OF THE PHILIPPINES**
**DEPARTMENT OF FINANCE**
**BUREAU OF INTERNAL REVENUE**
Quezon City

June 3, 2009

**REVENUE REGULATIONS NO. 6 - 2009**

**SUBJECT** : Amending Further Pertinent Provisions of Revenue Regulations (RR) No. 2-98, as Amended, Providing for an Additional Criteria in the Determination of Top 20,000 Private Corporations, Including the Threshold on their Purchases of Agricultural Products, and Additional Transactions Subject to Creditable Withholding Tax on Income Payments Made by the Top Five Thousand (5,000) Individual Taxpayers Engaged in Trade/Business or Practice of Profession

**TO** : All Withholding Agents, Internal Revenue Officers and Employees and Others Concerned

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**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, as amended, these Regulations are hereby promulgated providing for additional criteria in the determination of Top 20,000 Private Corporations, including the threshold on their purchases of agricultural products, and additional income payments subject to creditable withholding tax.

**SECTION 2. INCOME PAYMENTS SUBJECT TO CREDITABLE WITHHOLDING TAX.** – Sec. 2.57.2 of Revenue Regulations No. 2-98, as amended, is hereby further amended to read as follows:

"**Sec. 2.57.2 - Income payments 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 on income payments to persons residing in the Philippines:

xxx xxx xxx

**(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 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 aliens engaged in trade or business in the Philippines. Provided, however, that for purchases involving agricultural products in their original state, the tax required to be withheld under this sub-section shall only apply to purchases in excess of the cumulative amount of Three Hundred Thousand Pesos (P300,000) within the same taxable year. For this purpose, agricultural products in their original state as used in these regulations, shall only include corn, coconut, copra, palay, rice, cassava, sugar cane, coffee, fruits, vegetables, marine food products, poultry and livestocks.

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

Top 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. VAT payment or payable, whichever is higher, of at least P100,000 for the preceding year;
c. Annual income tax due of at least P200,000 for the preceding year;
d. Total percentage tax paid of at least P100,000 for the preceding year;
e. Gross sales of P10,000,000 and above for the preceding year;
f. Gross purchases of P5,000,000 and above for the preceding year;
g. Total excise tax payment of at least P100,000 for the preceding year.

Illustrative example for agricultural products:

***Question:*** How do we compute the 1% expanded withholding tax (EWT) on purchases of palay, an agricultural product, made by ABC Corporation, included in the BIR's list of Top 20,000 Private Corporations, from Mr. Ben Soriano, a small supplier/planter based on the following information:

| ***Number of Transactions*** | ***Year*** | ***Purchase Amount*** |
|---|---|---|
| One | 2009 | P 90,000.00 |
| Two | 2010 | 320,000.00 |
| One | 2011 | 400,000.00 |
| One | 2012 | 90,000.00 |

***Answer:***

1. In 2009, the transaction is exempt from the 1% EWT since the amount is less than P300,000.00.

2. In 2010, only the amount in excess of P300,000.00 or P20,000.00 shall be subject to the 1% EWT. Thus, the 1% EWT shall be P200.00 (P20,000.00 x 1%).

3. In 2011, the amount of P100,000.00 shall be subject to the 1% EWT since the amount is in excess of the P 300,000.00 threshold. Therefore, the amount of P1,000.00 shall be withheld (P100,000.00 x 1%).

4. In 2012, the transaction is exempt from the 1% EWT since the amount involved is only P 90,000.00 which is below the P300,000.00 threshold.

**xxx xxx xxx**

**(W) Income payments made by the top five thousand (5,000) Individual Taxpayers to their local/resident suppliers of goods and local/resident suppliers of services other than those covered by other rates of withholding tax.-** Income payments made by the Top 5,000 Individual Taxpayers engaged in trade or business in the Philippines, as determined by the Commissioner of Internal Revenue, to their local/resident suppliers of goods and local/ resident suppliers of services other than those covered by other rates of withholding tax, including non-resident aliens engaged in trade or business in the Philippines. Provided, however, that for purchases involving agricultural products in their original state, the tax required to be withheld under this sub-section shall only apply to purchases in excess of the cumulative amount of Three Hundred Thousand Pesos (P300,000) within the same year. For this purpose, agricultural products in their original state as used in these regulations, shall only include corn, coconut, copra, palay, rice, cassava, sugar cane, coffee, fruits, vegetables, marine food products, poultry and livestocks.

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

Illustrative example for agricultural products:

***Question:*** How do we compute the 1% expanded withholding tax (EWT)on purchases of corn, an agricultural product, made by Mr. Miguel Andres, included in the BIR's list of Top 5,000 Individual Taxpayers, from a small supplier/planter and not a regular supplier (less than 6 transactions) based on the following information:

| ***Number of Transactions*** | ***Year*** | ***Purchase Amount*** |
|---|---|---|
| Two | 2009 | P330,000.00 |
| One | 2010 | 420,000.00 |
| One | 2011 | 95,000.00 |

***Answer:***

1. In 2009, the amount in excess of P300,000.00 is subject to the 1% EWT; hence, withholding tax due of P300 shall be withheld and remitted (P30,000 x 1%).

2. In 2010, the amount in excess of P300,00.00 is subject to the 1% EWT hence, withholding tax due of P1,200.00 shall be withheld and remitted (P120,000.00 x 1%).

3. In 2011, the transaction is not subject to the 1% EWT since the amount is below the threshold of P 300,000.00.

Illustrative example for agricultural products:

***Question:*** How do we compute the 1% expanded withholding tax(EWT) on purchases of corn, an agricultural product, made by Mr. Antonio Panganiban, included in the BIR's list of Top 5,000 Individual Taxpayers, from a small supplier/planter, a regular supplier of Mr. Panganiban, based on the following information:

| ***Number of Transactions*** | ***Year*** | ***Purchase Amount*** |
|---|---|---|
| Seven | 2009 | P 100,000.00 |
| Ten | 2010 | 310,000.00 |
| Two | 2011 | 130,000.00 |

***Answer:***

1. In 2009, the total purchases is not subject to 1% EWT since the amount is below the P300,000.00 threshold.

2. In 2010, the EWT due is P100.00 since only the excess of P10,000 shall be subject to the 1% EWT.

3. In 2011, again the total purchases is not subject to 1% EWT since the amount is below the threshold of P300,000.00

Top 5,000 Individual Taxpayers shall refer to individual taxpayers engaged in trade or business or exercise of profession who have been

determined and notified by the Bureau of Internal Revenue (BIR) as having satisfied any of the following criteria:

a. VAT payment or payable, whichever is higher, of at least P100,000 for the preceding year;
b. Annual income tax due of at least P200,000 for the preceding year;
c. Total percentage tax paid of at least P100,000 for the preceding year;
d. Gross sales of P10,000,000 and above for the preceding year;
e. Gross purchases of P5,000,000 and above for the preceding year;
f. Total excise tax payment of at least P100,000 for the preceding year.

For individuals classified as resident citizen with multiple lines of business, the tax payments, gross sales and gross purchases shall be determined by taking into consideration all lines of business inasmuch as he/she is required by Section 51(A)(4)(a) of the Tax Code to declare in his/her return his/her income from all sources. In the case of other individuals (resident alien, non-resident alien and non-resident citizen) engaged in trade or business in the Philippines, only those derived in the Philippines shall be included in the computation of his/her gross sales and purchases for purposes of determining if he/she shall qualify as top 5,000 individual taxpayer.

The term "goods" pertains to tangible personal property used in the ordinary course of business and/or practice of profession. It does not include intangible personal property as well as real property.

The term "local/resident supplier of goods" pertains to a supplier from whom any of the top 5,000 individual taxpayers, as determined by the Commissioner, regularly makes purchase of goods. As a general rule, this does not include a casual purchase of goods, that is, purchase made from non-regular suppliers and oftentimes involving single purchase. However, a single purchase of goods other than agricultural products as defined in these Regulations which involves ten thousand pesos (P10,000.00) or more shall be subject to withholding tax. The term "regular suppliers" refer 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 the amount per transaction, either in the previous year or current year. The same rule applies to local/resident suppliers of services other than those covered by other rates of withholding tax.

An individual shall not be considered as withholding agent for purposes of these Regulations unless such individual has been determined and duly notified in writing by the Commissioner that he/she has been selected as one of the Top 5,000 Individual Taxpayers and shall remain as such unless the Commissioner notifies such individual in writing that he/she shall cease to be one. A taxpayer shall cease to be a withholding

agent for purposes of these Regulations when the individual submits to the BIR a notice of closure or cessation of all lines of business or fails to meet all the criteria enumerated herein and a notice of deletion is issued to him/her in writing by the Commissioner of Internal Revenue.

Top 5,000 Individual Taxpayers shall submit a list of regular suppliers of goods and/or services to the Revenue District Officer having jurisdiction over their principal place of business on or before July 31 and January 31 for the first and second semester of each year, respectively, in diskette/CD format or through e-submission. The technical specifications of the said list is prescribed in a separate revenue issuance. The initial list, however, shall be submitted within fifteen (15) days from receipt of the notice as one of the Top 5,000 Individual Taxpayers.

The Commissioner may recommend to the Secretary of Finance the amendment to or modification of any or all of the criteria in the determination and selection of taxpayers forming part of the top 5,000 individual taxpayers considering such factors as inflation, volume of business and similar factors. Provided, however, that the Commissioner is empowered to conduct a periodic review as to the number of taxpayers who ceased to qualify under the category of top five thousand individual taxpayers for purposes of delisting/excluding them from the list and to identify taxpayers to be included in the list.

**SECTION 3. MANDATORY ELECTRONIC FILING AND PAYMENT.** – The Top 5,000 Individual Taxpayers engaged in trade or business or practice of profession are required to file returns and remit the taxes withheld thru the Electronic Filing and Payment System (EFPS) pursuant to Revenue Regulations No. (RR) 9-2001, as amended by RR Nos. 2-2002, 9-2002, 26-2002 and 5-2004.

**SECTION 4. REPEALING CLAUSE.** - All existing revenue regulations and other issuances or portions thereof which are inconsistent herewith are hereby revoked, repealed or amended accordingly.

**SECTION 5. EFFECTIVITY.** – These regulations shall take effect after fifteen (15) days following its 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