

**[BIR REVENUE REGULATIONS NO. 16-2003,
March 31, 2003]**

**IMPLEMENTING THE PROVISIONS OF SECTIONS 6, 244 AND 245
IN RELATION TO SECTIONS 24, 25, 27, 28, 51, 52, 106, 108,
114, 116, AND 128 OF THE NATIONAL INTERNAL REVENUE CODE
OF 1997 (CODE), IMPOSING ADVANCE PAYMENT OF VALUE-
ADDED TAX OR PERCENTAGE TAX AND OF INCOME TAX ON
"PRIVILEGE-STORE" AND PRESCRIBING AND REITERATING THE
OBLIGATIONS OF ORGANIZER OR EXHIBITOR OF SPACE FOR
THE OPERATION OF "PRIVILEGE-STORE," AS WELL AS OF THE
"PRIVILEGE-STORE" OPERATORS**

POLICY STATEMENTS

The past years saw the formidable growth of "*privilege-stores*" popularly known as "*tiangges*." This type of temporary stalls or outlets where goods/services are sold only for a brief duration of time is now a familiar sight in various areas of the country, especially in places like the shopping malls, open spaces or lobbies of office buildings, hospitals, hotels, parks, churches, subdivisions or even along the streets of the metropolis and in other public areas.

What used to be a seasonal affair occurring only during the Christmas period has now evolved into a recurring event for the most part of the year. Thus, from this emerged anew breed of profitable business enterprises that have escaped taxation precisely because, through such type of stall or outlet, they have invariably managed to conduct their business operations in such a nomadic fashion thereby making it difficult for the Bureau to track them down and/or compel them to pay the rightful taxes due to the Government.

The growing popularity of using this medium to sell goods/services necessitates the Bureau to employ a scheme to plug revenue leakages and to tap additional revenue source which is *through the advance payment of probable taxes due*. Prescribing such mode of tax collection is very well within the realm of the authority of the Department of Finance and the Bureau of Internal Revenue because Section 245(j) of the Code allows the promulgation of Revenue Regulations prescribing the "*manner in which internal revenue taxes such as income tax, including withholding tax, estate and donor's tax, value added tax, other percentage taxes, excise taxes and documentary stamp taxes shall be paid through the collection officers of the Bureau of Internal Revenue or through duly authorized agent banks which are deputized to receive payment of such taxes and the returns, papers and statements that may be filed by taxpayers in connection with the payment of the tax: . . .*"

This concept of tax collection is not new to the Bureau, for in the past, it had already employed such method of collection when it promulgated Revenue Regulations No. 7-89, which was later amended and superseded by Revenue

Regulations No. 29-2002, requiring the advance payment of value-added tax (VAT) on the sale of refined sugar.

These Regulations, therefore, shall govern the advance payment of value-added tax or percentage tax and of income tax by those who sell goods and/or services through the use of "*privilege-store*."

SECTION 1. Scope. — Pursuant to the provisions of Sections 244, 245 and 6 in relation to Sections 24, 25, 27, 28, 51, 52, 106, 108, 114, 116, and 128 of the National Internal Revenue Code of 1997, these Regulations are hereby promulgated to prescribe the rules on the advance payment of value-added tax or percentage tax and of income tax by those who employ the use of "*privilege-store*" as a place to sell their goods/services.

SEC. 2. Definition Of Terms. — For purposes of these Regulations:

(a) The term "*Privilege-Store*" refers to a stall or outlet which is not permanently fixed to the ground and is normally set up in places like the shopping malls, hospitals, office buildings, hotels, villages or subdivisions, churches, parks, streets and other public places, which puts on sale a variety of goods/services within brief durations of time.

(b) The term "*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) The term "*Privilege-Store Operator*" refers to the person or entity sub-leasing 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.

SEC. 3. Obligations Of The Exhibitor/Organizer And Privilege-Store Operators To The Bureau Of Internal Revenue. —

(A) Obligations of the 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 the exhibitor's Certificate of Registration issued by the Bureau of Internal Revenue in a conspicuous place in the area or space devoted to the establishment of privilege-stores.

(2) *Obligation to Deduct and Withhold the 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 prescribed in Revenue Regulations No. 2-98, as amended (five percent (5%) of the gross amounts, unless later 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 Revenue Regulations No. 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. 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 the respective identities of those who have sub-leased the spaces for the operation of privilege-stores shall have the duty, prior to the opening thereof, 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, the individual Taxpayer Identification Number (TIN) and Certificate of Registration (COR) of persons/entities participating in the event and the specific dates and duration when such operations shall be conducted.

(4) *Obligation to Ensure Registration with the Bureau of Internal Revenue (BIR) and the Remittance of Actual Withholding Tax Liabilities and of Advance Income Tax and Advance Value-added Tax or Percentage Tax by the Privilege-store Operator* — Every organizer or exhibitor is obliged to demand from the privilege-store operator presentation of proof of BIR registration and of payment of actual withholding tax due on income payment or expenditure item paid or accrued, or of advance income tax and of advance value-added tax or percentage tax due for payment prior to the actual operation of the privilege-store or prior to the start of the month to which the advance tax payment shall be applied.

(5) *Obligation to Report to the Bureau of Internal Revenue non-compliance by the privilege-store operators of their obligations and responsibilities.* — Every exhibitor or organizer is obliged to monitor the compliance by privilege-store operators 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 of and sanctions imposed on privilege-store operators shall be reported to the Bureau of Internal Revenue.

(B) Obligations of Privilege-Store Operators. —

(1) *Obligation to Deduct and Withhold the Expanded Withholding Tax on Rental Payments to Exhibitor/Organizer For Sub-Leased Spaces.* — Every privilege-store operator shall, upon accrual or payment of rentals of sub-leased spaces to the exhibitor/organizer, withhold and deduct from such accrued or paid rentals withholding tax on rentals at the rate prescribed in Revenue Regulations No. 2-98, as amended (five percent (5%) of the gross amounts, unless later amended), which shall be remitted/paid on or before the 10th day of the following month using the Monthly