

**[BIR REVENUE MEMORANDUM ORDER NO. 57-
2000, December 21, 2000]**

**GUIDELINES IN THE IMPLEMENTATION OF THE
ADMINISTRATIVE SANCTION OF SUSPENSION AND TEMPORARY
CLOSURE OF BUSINESS**

I. Objective

The Tax Code of 1997 empowers the Commissioner of Internal Revenue to suspend the business operations of a taxpayer on certain grounds, pertinent provisions of which provides:

"Sec. 115- Power of the Commissioner to Suspend the Business Operations of a Taxpayer - The Commissioner or his authorized representative is hereby empowered to suspend the business operations and temporarily close the business establishment of any person for any of the following violations:

(a) In the case of a VAT-registered Person -

(1) Failure to issue receipts or invoices;

(2) Failure to file a value-added tax return as required under Section 114; or

(3) Understatement of taxable sales or receipts by thirty percent (30%) or more of his correct taxable sales or receipts for the taxable quarter.

(b) Failure of any Person to register as required under Section 236.

The temporary closure of the establishment shall be for the duration of not less than five (5) days and shall be lifted only upon compliance with whatever requirements prescribed by the Commissioner in the closure order."

Thus, this Order is hereby promulgated to provide for the guidelines governing the enforcement of the administrative sanction of suspension and temporary closure of businesses relative to the following provisions of the Tax Code of 1997:

"Sec. 113 - Invoicing and Accounting Requirements for VAT Registered Persons.

(A) *Invoicing Requirements - A VAT-registered person shall for every*

sale, issue an invoice or receipt. In addition to the information required under Section 237, the following information shall be indicated in the invoice or receipt:

(1) A statement that the seller is a VAT-registered person, followed by his taxpayer's identification number (TIN); and

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax

(B) Accounting Requirements - Notwithstanding the provisions of Section 233, all persons subject to the value-added tax under Sections 106 and 108 shall in addition to the regular accounting records required, maintain a subsidiary sales journal and subsidiary purchase journal on which the daily sales and purchases are recorded. The subsidiary journals shall contain such information as maybe required by the Secretary of Finance.

"SEC. 114. Return and Payment of Value Added Tax -

"(A) In General. Every person liable to pay the value-added tax imposed under this Title shall file a quarterly return of the amount of his gross sales or receipts within twenty-five (25) days following the close of each taxable quarter prescribed for each taxpayer: Provided, however, That VA T-registered persons shall pay the value-added tax on a monthly basis.

"Any person, whose registration has been cancelled in accordance with Section 236, shall file a return and pay the tax due thereon within twenty-five (25), days from the date of cancellation of registration: Provided, That only one consolidated return shall be filed by the taxpayer for his principal place of business or head office and all branches.

"(B) Where to File the Return and Pay the Tax - Except as the Commissioner otherwise permits, the return shall be filed with and the tax paid to an authorized agent bank, Revenue Collection Officer or duly authorized city or municipal Treasurer in the Philippines located within the revenue district where the taxpayer is registered or required to register.

"(C) Withholding of Creditable Value-added Tax - The Government or any of its political subdivisions, instrumentalities or agencies, including government-owned or -controlled corporations (GOCCs) shall, before making payment on account of each purchase of goods from sellers and services rendered by contractors which are subject to the value-added tax imposed in Sections 106 and 108 of this Code, deduct and withhold the value-added tax due at the rate of three percent (3%) of the gross payment for the purchase of goods and six percent (6%) on gross receipts for services rendered by contractors on every sale or installment payment which shall be creditable against the value-added tax liability of the seller or contractor: Provided, however, That in the case of

government public works contractors the withholding rate shall be eight and one-half percent (8.5%): Provided, further, That the payment for lease or use of properties or property rights to nonresident owners shall be subject to ten percent (10%) withholding tax at the time of payment For this purpose, the payor or person in control of the payment shall be considered as the withholding agent.

"The value-added tax withheld under this Section shall be remitted within ten (10) days following the end of the month the withholding was made.

"SEC. 236. Registration Requirements - '

"(A) Requirements - Every person subject to any internal revenue tax shall register once with the appropriate Revenue District Officer:

"(1) Within ten (10) days from date of employment, or

"(2) On or before the commencement of business, or

"(3) Before payment of any tax due, or

"(4) Upon filing of a return, statement or declaration as required in this Code.

"The registration shall contain the taxpayer's name, style, place of residence, business, and such other information as may be required by the Commissioner in the form prescribed therefor.

"A person maintaining a head office, branch or facility shall register with the Revenue District Officer having jurisdiction over the head office, branch, or facility. For purposes of this Section, the term 'facility' may include but not be limited to sales outlets, places of production, warehouses or storage places.

"(B) Annual Registration Fee - An annual registration fee in the amount of Five hundred pesos (P500) for every separate or distinct establishment or place shall be paid upon registration and every year thereafter on or before the last day of January: Provided, however, That cooperatives, individuals earning purely compensation income, whether locally or abroad, and overseas workers are not liable to the registration fee herein imposed.

"The registration fee shall be paid to an authorized agent bank located within the revenue district, or to the Revenue Collection Officer, or duly authorized Treasurer of the city or municipality where each place of business or branch is registered.

"(C) Registration of Each Type of Internal Revenue Tax - Every person who is required to register with the Bureau of Internal Revenue under Subsection (A) hereof, shall register each type of internal revenue tax for which he is obligated, shall file a return and shall pay such taxes, and shall update such registration of any changes in accordance with Subsection (E) hereof.

"(D) Transfer of Registration - in case a registered person decides to

transfer his place of business or his head office or branches, it shall be his duty to update his registration status by filing an application for registration information update in the form prescribed therefor.

"(E) Other Updates - Any person registered in accordance with this Section shall, whenever applicable, update his registration information with the Revenue District Office where he is registered, specifying therein any change in tax type and other taxpayer details.

"(F) Cancellation of Registration - The registration of any person who ceases to be liable to a tax type shall be cancelled upon filing with the Revenue District Office where he is registered an application for registration information update in a form prescribed therefor.

"(G) Persons Commencing Business - Any person, who expects to realize gross sales or receipts subject to value-added tax in excess of the amount prescribed under Section 109(z) of this Code for the next 12-month period from the commencement of the business, shall register with the Revenue District Office which has jurisdiction over the head office or branch and shall pay the annual registration fee prescribed in Subsection (B) hereof.

"(H) Persons Becoming Liable to the Value-added Tax - Any person, whose gross sales or receipts in any 12-month period exceeds the amount prescribed under Section 109(z) of this Code for exemption from the value-added tax shall register in accordance with Subsection (A) hereof, and shall pay the annual registration fee prescribed within ten (10) days after the end of the last month of that period, and shall be liable to the value-added tax commencing from the first day of the month following his registration.

"(I) Optional Registration of Exempt Person - Any person whose transactions are exempt from value-added tax under Section 109(z) of this Code; or any person whose transactions are exempt from the value-added tax under Section 109 (a), (b), (c), and (d) of this Code, who opts to register as a VAT taxpayer with respect to his export sales only, may update his registration information in accordance with Subsection (E) hereof, not later than ten (10) days before the beginning of the taxable quarter and shall pay the annual registration fee prescribed in Subsection (B) hereof.

"In any case, the Commissioner may, for administrative reasons, deny any application for registration including updates prescribed under Subsection (E) hereof.

"For purposes of Title IV of this Code, any person who has registered value-added tax as a tax type in accordance with the provisions of Subsection (C) hereof shall be referred to as VAT-registered person who shall be assigned only one Taxpayer Identification Number.

"(J) Supplying of Taxpayer Identification Number (TIN) - Any person required under the authority of this Code to make, render or file a return,

statement or other document shall be supplied with or assigned a Taxpayer Identification Number (TIN) which he shall indicate in such return, statement or document filed with the Bureau of Internal Revenue for his proper identification for tax purposes, and which he shall indicate in certain documents, such as, but not limited to the following:

"(1) Sugar quedans, refined sugar release order or similar instruments;

"(2) Domestic bills of lading;

"(3) Documents to be registered with the Register of Deeds or Assessor's Office;

"(4) Registration certificate of transportation equipment by land, sea or air;

"(5) Documents to be registered with the Securities and Exchange Commission;

"(6) Building construction permits;

"(7) Application for loan with banks, financial institutions, or other financial intermediaries;

"(8) Application for mayor's permit;

"(9) Application for business license with the Department of Trade and Industry; and

"(10) Such other documents which may hereafter be required under rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.

"In cases where a registered taxpayer dies, the administrator or executor shall register the estate of the decedent in accordance with Subsection (A) hereof and a new Taxpayer Identification Number (TIN) shall be supplied in accordance with the provisions of this Section.

"In the case of a nonresident decedent, the executor or administrator of the estate shall register the estate with the Revenue District Office where he is registered: provided, however, That in case such executor or administrator is not registered, registration of the estate shall be made with and the Taxpayer Identification Number (TIN) supplied by the Revenue District Office having jurisdiction over his legal residence.

"Only one Taxpayer Identification Number (TIN) shall be assigned to a taxpayer. Any person who shall secure more than one Taxpayer Identification Number shall be criminally liable under the provisions of Section 2 75 on 'Violation of Other Provisions of this Code or Regulations in General.'

"Sec. 237. Issuance of Receipts or Sales or Commercial Invoices - All