

[BIR REVENUE MEMORANDUM CIRCULAR NO. 2-2004, December 26, 2003]

CLARIFYING THE ISSUES ON VAT TAXABLE TRANSACTIONS OF PHILIPPINE PORTS AUTHORITY AMENDING REVENUE MEMORANDUM CIRCULAR NO. 20-88, PURSUANT TO REPUBLIC ACT 7716 AS IMPLEMENTED BY REVENUE REGULATIONS 7-95

Background

Pursuant to the enactment into law of Republic Act No. 7716, "An Act Restructuring the Value Added Tax (VAT) System, Widening its Tax Based and Enhancing its Administration and for These Purposes Amending and Repealing the Relevant Provisions of the National Internal Revenue Code, as Amended, and for Other Purposes", as implemented by Revenue Regulations No. 7-95, there is a need to amend and clarify Revenue Memorandum Circular No. 20-88, "Publishing Questions and Answers relative to the Operations of the Philippine Ports Authority, issued pursuant to the 1977 National Internal Revenue Code, as amended.

In view of the fact that Section 1 of R.A. 7716, has amended Section 99 of the 1977 National Internal Revenue Code, to provide as follow:

"Sec.99 Persons Liable - Any person who, in the course of trade or business, sells, barters, exchanges, leases goods or properties, renders services, and any person who imports goods shall be liable to the value-added tax (VAT) imposed in Sections 100 to 102 of this Code.

"The value-added tax is an indirect tax and the amount of tax may be shifted or passed on to the buyer, transferee or lessee of the goods, properties or services. This rules likewise apply to existing contracts of sale or lease of goods, properties or services at the time of the effectivity of this Act.

"The phrase `in the course of trade or business' means the regular conduct or pursuit of a commercial or an economic activity, including transactions incident thereto, by any person regardless of whether or not the person engaged therein is a non-stock, non-profit private organization (irrespective of the disposition of its net income and whether or not it sells exclusively to members or their guests), or government entity.

"The rules of regularity, to the contrary, notwithstanding services as defined in this Code rendered in the Philippines by nonresident foreign persons shall be considered as being rendered in the course of trade or business."