

[BIR REGULATIONS NO. 25-2002, November 19, 2002]

AMENDING REVENUE REGULATIONS NO. 5-99, FURTHER IMPLEMENTING SECTION 34(E) OF THE TAX CODE OF 1997 ON THE REQUIREMENTS FOR DEDUCTIBILITY OF BAD DEBTS FROM GROSS INCOME.

SECTION 1. Scope. — Pursuant to the provisions of Section 244 of the Tax Code of 1997, these regulations are hereby promulgated to amend Revenue Regulations No. 5-99 thereby further implementing the provisions of Section 34(E) of the same Code on the requirements for deductibility of bad debts from the gross income of a corporation, *including banks and insurance companies*, or an individual, estate and trust that is engaged in trade or business or a professional engaged in the practice of his profession.

SEC. 2. Amendment. — Section 3 of RR 5-99 on the requisites for valid deduction of bad debts from gross income is hereby amended by deleting the penultimate paragraph of the said Section and should now read as follows:

"Sec. 3. Requisites for valid deduction of bad debts from gross income. — The requisites for deductibility of bad debts are:

- (1) There must be an existing indebtedness due to the taxpayer which must be valid and legally demandable;*
- (2) The same must be connected with the taxpayer's trade, business or practice of profession;*
- (3) The same must not be sustained in a transaction entered into between related parties enumerated under Sec. 36(B) of the Tax Code of 1997;*
- (4) The same must be actually charged off the books of accounts of the taxpayer as of the end of the taxable year; and*
- (5) The same must be actually ascertained to be worthless and uncollectible as of the end of the taxable year.*

"Before a taxpayer may charge off and deduct a debt, he must ascertain and be able to demonstrate with reasonable degree of certainty the uncollectibility of the debt. The Commissioner of Internal Revenue will consider all pertinent evidence, including the value of the collateral, if any, securing the debt and the financial condition of the debtor in determining whether a debt is worthless, or the assigning of the case for collection to an independent collection lawyer who is not under the employ of the taxpayer and who shall report on the legal obstacle and the virtual impossibility of collecting the same from the debtor and who