

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

January 15, 2003

REVENUE MEMORANDUM CIRCULAR NO. 6-2003

SUBJECT : Clarifying Certain Issues Relative to the Services Rendered by Individual Professional Practitioners, General Professional Partnerships, Entertainers, and Professional Athletes Who Are Subject to the Value-Added Tax or Percentage Tax, Whichever is Applicable, Beginning January 1, 2003

TO : All Internal Revenue Officers and Others Concerned.

Q-1. What are the services that are newly covered by the VAT System starting January 1, 2003?

A-1. Services performed in the exercise or practice of profession or calling by individuals subject to the professional tax under the Local Government Code or Republic Act No. 7160, and professional services rendered by general professional partnerships (GPP); services performed by actors/actresses, talents, singers, emcees, radio/television broadcasters, choreographers, musical/radio/movie/television/stage directors, and professional athletes; services rendered by customs, real estate, stock, immigration and commercial brokers; as well as services rendered by banks, non-bank financial intermediaries, finance companies and other financial intermediaries not performing quasi-banking functions are the services that are newly covered by the VAT System starting January 1, 2003. The performance of the aforesaid services should not be in pursuit of an employer-employee relationship between the service-provider and the service-recipient.

It is to be emphasized, however, that only services performed in the Philippines are subject to the 10% VAT imposed under Section 108 or the 3% percentage tax under Section 116, both of the National Internal Revenue Code (NIRC) of 1997. Further, those whose gross receipts exceed P550,000 in any 12-month period are mandatorily covered by the VAT system while those whose gross receipts do not exceed P550,000 may choose to be covered either by the VAT or the NON-VAT (percentage tax) system but absence of choice automatically puts the taxpayer under the coverage of the NON-VAT (percentage tax) system.

In determining the P550,000 threshold limit, the same shall include the aggregate gross receipts from all taxable lines of activity and/or all establishments (head office/ branches) in any 12-month period.

Q-2. Is there a possibility that some services enumerated in A-1 be covered by other type of tax or exempted from the VAT system?

A-2. Yes, if there is a new law issued deferring the implementation of the VAT or the 3% percentage tax, whichever is applicable, on selected services starting January 1, 2003.

Q-3. What law originally imposed the VAT on the services enumerated in A-1?

A-3. Republic Act No. 7716 (Expanded VAT Law) implemented in 1996 expanded the coverage of the VAT system to include all sales of goods/properties and services with the exception only of the transactions enumerated in Section 103 of the National Internal Revenue Code of 1977, as amended (now Section 109 of the National Internal Revenue Code of 1997).

Q-4. What was the reason why VAT was never implemented on the services enumerated in A-1 since 1996?

A-4. Several laws were issued deferring the implementation of VAT on the services mentioned in A-1, among others. These laws are the following:

<u>LAW</u>	<u>YEAR OF EFFECTIVITY</u>	<u>DURATION OF DEFERMENT</u>
a.) R.A. No. 7716	1996	Until December 31, 1996
b.) R.A. No. 8241	1997	Until December 31, 1997
c.) R.A. No. 8424	1998	Until December 31, 1999
d.) R.A. No. 8761	2000	Until December 31, 2000
e.) R.A. No. 9010	2001	Until December 31, 2002

Q-5. What transactions and/or services are not subject to VAT or covered by the VAT system?

A-5. These are the transactions and/or services enumerated under Section 109 of the National Internal Revenue Code (NIRC) of 1997.

Q-6. What is the taxable base for VAT (Output Tax) in case of seller of service?

A-6. Gross receipts.

Q-7. What do you mean by the term “gross receipts”?

A-7. The term “gross receipts” means the total amount of money or its equivalent representing the contract price, compensation, service fee, rental or royalty, including the amount charged for materials supplied with the services and deposits and advanced payments actually or constructively received during the taxable period/quarter for the services performed or to be performed for another person, excluding value-added tax.

Q-8. How do you compute the VAT on sale of services?

A-8. The VAT on sale of services is computed by applying the factor 1/11 on the total amounts received in payment for sale of services in a given taxable period (monthly or quarterly) to arrive at the output VAT or the VAT on sales. This formula, however, does not apply to the VAT of financial institutions on selected transactions. (A separate Revenue Memorandum Circular will be issued discussing VAT on financial institutions as well as VAT on brokers.)

Q-9. What is the basis in computing the VAT payable or excess input VAT?

A-9. Total output tax during the period (month or quarter) less total allowable input tax during the same period. The allowable input tax includes a carry-over of the excess input tax from the preceding period in addition to those derived from current purchases. Advanced VAT payment and VAT withheld by authorized VAT withholding agent are likewise allowable as tax credits from VAT payable/excess input VAT.

Q-10. What do you mean by the term “profession or calling subject to professional tax under the Local Government Code”?

A-10. The term applies to profession requiring passage in a government examination before a person can engage in the exercise thereof such as the one which requires license from the Professional Regulation Commission (PRC) or other government agencies, or the practice of law in the Philippines authorized by the Supreme Court.

Q-11. What particular provisions of the Local Government Code does the phrase “profession or calling subject to the professional tax under the Local Government Code or R.A. No. 7160” refer to?

A-11. Under Section 139 of the Local Government Code of 1991, the province may levy/impose an annual professional tax on each person engaged in the exercise or practice of his profession requiring government examination at such amount and reasonable classification as the Sangguniang Panlalawigan may determine but shall in no case exceed three hundred pesos (P300). Moreover, under Section 151 of the same Code, the city may levy/impose the taxes, fees, and charges which the province or municipality may impose.

Q-12. Is there a revenue issuance or Revenue Regulations issued to announce the implementation of VAT on professionals, entertainers, athletes, etc.? What other revenue regulations govern the implementation of VAT on services rendered by professionals (including GPPs), entertainers, and athletes?

- A-12. Yes, Revenue Regulations No. 1-2003 implementing Section 5 of R.A. No. 8424, as last amended by Section 1 of R.A. No. 9010, subjects services rendered by the above-mentioned persons to VAT beginning January 1, 2003.

The imposition of VAT on such services shall likewise be governed by the provisions of Revenue Regulations No. 7-95, as amended, otherwise known as "The Consolidated VAT Regulations".

Q-13. Who are those required to register as VAT-taxpayers under R.R. No. 1-2003? What are the consequences, if any, of failure to register?

- A-13. Individual professional practitioners liable to pay the professional tax under the Local Gov't. Code, general professional partnerships (GPPs), actors/actresses, talents, singers, emcees, radio/television broadcasters, choreographers, musical/radio/movie/television/stage directors, professional athletes, as well as customs/real estate/stock/immigration/commercial brokers, with aggregate gross receipts or expected aggregate gross receipts, for new taxpayers, in all taxable lines of activity exceeding P550,000 for any 12-month period are required to register as VAT-taxpayers. As such, they are required to file the monthly VAT Declaration and the quarterly VAT Return. They shall still pay the annual business registration fee of five hundred pesos (P500) for every business establishment. In case of failure to register, they shall, nevertheless, be liable for the payment of VAT, in addition to the registration fee of P500.00 per establishment, plus all the applicable penalties, but they cannot claim input VAT. Neither can the customers/clients of the VAT-registrable taxpayer claim input VAT for the non-VAT official receipt issued to them.

Q-14. Who are those required to register as NON-VAT (percentage) taxpayers? What are the consequences, if any, of failure to register?

- A-14. Professionals paying the professional tax under the Local Government Code, general professional partnerships, actors/actresses, talents, singers, emcees, radio/television broadcasters, choreographers, musical/radio/movie/television/stage directors, professional athletes with aggregate gross receipts or expected aggregate gross receipts, for new taxpayers, in all taxable lines of activity for any 12-month period exceeding P100,000 but not exceeding P550,000 and who have not opted for VAT coverage are required to register as NON-VAT (percentage) taxpayers liable to the 3% percentage tax based on gross receipts pursuant to Section 116 of the National Internal Revenue Code of 1997. As such, they are required to file the monthly Percentage Tax Return using BIR Form No. 2551M. They shall still pay the annual business registration fee of five hundred pesos (P500) for every business establishment not later than January 31. In case of failure to register, they shall be liable for the payment of the 3% Percentage Tax, in addition to the annual registration fee of P500.00 per establishment, plus all the applicable penalties.

Q-15. For taxpayers mentioned in A-1, who are those exempt from the payment of the VAT, the 3% Percentage Tax and the registration fee of P500?

A-15. Those whose aggregate gross receipts do not exceed P100,000 in all lines of taxable business/profession during any 12-month period shall be exempt from the payment of VAT, Percentage Tax, and Registration Fee, but they are still required to register.

Q-16. Other than the VAT or percentage tax, whichever is applicable, what other taxes are supposed to be paid by the individual professional practitioners, entertainers, athletes, etc. relative to the exercise of their profession or calling?

A-16. The other taxes that are supposed to be paid are as follows:

- (1) Income Tax on the net taxable income under Title II of the NIRC of 1997;
- (2) Withholding Tax on income payments (purchases and expenditures) that are subject to withholding tax under Revenue Regulations No. 2-98, as amended, and RR 3-98 as amended; and,
- (3) Documentary Stamp Tax and expanded withholding tax on purchase of real property for use in the business.

Q-17. Other than the VAT or percentage tax, whichever is applicable, what other taxes are supposed to be paid by the general professional partnership relative to the exercise of profession?

A-17. The other taxes that are supposed to be paid are as follows:

- (1) Withholding Tax on income payments (purchases and expenditures) that are subject to withholding tax under Revenue Regulations No. 2-98, as amended, and RR 3-98 as amended: and,
- (2) Documentary Stamp Tax and expanded withholding tax on purchase of real property for use in the business.

It is worth stating that these rules apply only if the general professional partnership is formed for the practice of a common profession; otherwise, the partnership is likewise liable to pay income tax, in addition to the taxes herein mentioned.

Q-18. Is a minor or person below 21 years of age performing any of the services mentioned in A-1 liable to pay VAT or percentage tax, whichever is applicable, beginning January 1, 2003?

A-18. Yes.

Q-19. Is the VAT or percentage tax, as the case may be, on services mentioned in A-1 different from the tax being required to be withheld by the payor-withholding agent from the income payments/accrued/payable to individual

professional practitioners, entertainers, and athletes for remittance to the government as required in Revenue Regulations No. 2-98 as amended by RR 6-2001, RR 12-2001 and lastly amended by RR 14-2002?

A-19. Yes, the 10% VAT or the 3% percentage tax, whichever is applicable, is a tax on the business transaction or activity and is an indirect tax which the seller may pass-on or shift to the customer who ultimately bears or assumes the burden of the tax while the tax being required to be withheld under Sec. 2.57.2 of RR 2-98, as amended by RR 6-2001 and RR 12-2001, is an income tax on net taxable income to be withheld by the payor/withholding agent based on the amount of income payment/accrued/payable to the income recipient or service-provider who actually assumes the burden of the tax since income tax cannot be shifted being a direct tax.

Q-20. Who are required to register and pay the annual registration fee of P500 with the Revenue District Office(RDO)/Large Taxpayers District Office(LTDO) that has jurisdiction over the establishment?

A-20. In general, the following are required to register and pay the annual registration fee of P500 each with the RDO/LTDO having jurisdiction over (a) or (b) below:
(a) Main or head office;
(b) Branch that generates sales.

Thus, if an individual professional has business offices in Pasig City (main office) and in Mandaluyong City (branch or extension office), he must register and pay the annual registration fee of P500 each with RDO 43 (Pasig) and RDO 41 (Mandaluyong);

Q-21. What is the deadline for the registration or update in registration of those newly covered by the VAT system or the NON-VAT payment system, whichever is applicable, and for the payment of the annual registration fee?

A-21. Those taxpayers newly covered by the VAT system or the NON-VAT payment system, whichever is applicable, as enumerated in A-1 above, shall register or update their registration records as either VAT-taxpayers or NON-VAT (Percentage) taxpayers, and pay the annual registration fee of P500 for every place of establishment on or before January 31, 2003. The annual registration fee for the subsequent years shall be paid on or before January 31 of the applicable year.

Q-22. What compliance activities should a VAT taxpayer, after registration as such, do promptly or periodically?

A-22. The following compliance activities must be performed by a VAT-registered taxpayer:

- (a) Pay the annual registration fee of P500 for every place of business or establishment that generates sales, after updating the registration records, including the Industry Code or Occupation Code, of the taxpayer with the Bureau of Internal Revenue (BIR) that need correction (The specific profession(s), occupation/calling/business should be included in the registration records);
- (b) Registration of the books of accounts of the business/occupation/calling, including practice of profession, before using the same;
- (c) Registration of sales invoices and official receipts as VAT-invoices or VAT-official receipts for use on transactions subject to VAT. (If there are other transactions not subject to VAT, a separate set of non-VAT invoices or non-VAT official receipts need be registered for use on transactions not subject to VAT);
- (d) Filing of the Monthly Value-added Tax Declaration on or before the 20th day following the end of the taxable month (for manual filers)/on or before the prescribed due dates enunciated in R.R. No. 26-2002 (for e-filers) using BIR Form No. 2550M and of the Quarterly VAT Return on or before the 25th day following the end of the taxable quarter using BIR Form No. 2550Q, reflecting therein gross receipts (for seller of service)/gross sales(for seller of goods) and output tax (VAT on sales); purchases of goods and services made in the course of trade or business/exercise of profession and input tax (VAT on purchases), other allowable tax credits as in the case of advance VAT payment and VAT withheld by government payors, and VAT payable or excess input VAT, whichever is applicable, with the accredited agent banks (AABs) of the BIR or Revenue Collection Officers (RCOs) of the BIR (in areas without AAB), for returns with payment, or with the RDO/LTDO having jurisdiction over the taxpayer (home RDO/LTDO), for returns without payment. (The monthly VAT Declaration and the quarterly Vat Return shall reflect the consolidated total for all the taxable lines of activity and all the establishments – head office and branches);
- (e) Submit with the RDO/LTDO having jurisdiction over the taxpayer, on or before the deadline set in the filing of the Quarterly VAT Return, the soft copy of the Quarterly Schedule of Monthly Sales and Output Tax (if the quarterly sales exceed P2,500,000), and the soft copy of the Quarterly Schedule of Monthly Domestic Purchases and Input Tax/ the soft copy of the Schedule of Transactional/Individual Importation (if the quarterly total purchases exceed P1,000,000), reflecting therein the data prescribed by Revenue Regulations No. 8-2002.

Q-23. What compliance activities should a Non-VAT (percentage) taxpayer, after registration as such, do promptly or periodically?

A-23. The following compliance activities must be performed by a Non-VAT taxpayer subject to percentage tax:

- (a) Pay the annual registration fee of P500 for every place of business or establishment that generates sales, after updating the registration records, including the Industry Code or Occupation Code, of the taxpayer with the Bureau of Internal Revenue (BIR) that need correction (The specific profession(s), occupation/calling/business should be included in the registration records);
- (b) Registration of the books of accounts of the business/occupation/calling, including practice of profession, before the use thereof;
- (c) Registration of sales invoices and official receipts as non-VAT invoices or non-VAT official receipts for use in transactions not subject to VAT. (If there are other transactions subject to VAT, a separate set of VAT-invoices or VAT-official receipts need be registered for use on transactions subject to VAT);
- (d) Filing of the Monthly Percentage Tax Return on or before the 20th day following the end of the taxable month (for manual filers)/on or before the prescribed due dates enunciated in RR No. 26-2002 (for e-filers) using BIR Form No. 2551M, reflecting therein, for all the taxable lines and all the business establishments, the aggregate gross receipts (for seller of service)/gross sales(for seller of goods), other allowable tax credits as in the case of advance tax payment, tax withheld by government payors, etc., and tax payable or refundable, whichever is applicable, with the accredited agent banks (AABs) of the BIR or Revenue Collection Officers (RCOs) of the BIR (in areas without AAB), for returns with payment, or with the RDO/LTDO having jurisdiction over the taxpayer(home RDO/LTDO), for returns without payment.

Q-24. If VAT, being an indirect tax, is passed-on or shifted by the service-provider to the service-recipient, how will the latter treat such shifted VAT in his books of accounts or records, if any or applicable as in the case of buyer of the service who is engaged in business?

A-24. If the service-recipient is a taxpayer engaged in trade, business/calling or profession liable to VAT on sale of goods or services or the so-called output VAT, the shifted VAT on purchases in the course of trade or business is considered as an input VAT which can be claimed as tax credit against the output VAT, among others, in arriving at the VAT payable or excess input tax. On the other hand, if the service-recipient is a taxpayer engaged in trade, business/calling or profession not liable to VAT, the shifted VAT on the purchases in the course of trade or business shall be treated as part of cost of purchases or expenses.

It is to be emphasized, likewise, that if the service-recipient is not engaged in trade, business/calling or profession, or if the purchase is done not in the course of trade or business, the passed-on or shifted VAT shall form part of the cost or expenses he incurred for personal use or consumption and therefore not deductible in computing any kind of tax.

Q-25. If the percentage tax, being an indirect tax, is shifted by the service-provider to the service-recipient, how will the latter treat such shifted percentage tax?

A-25. If the service-recipient is a taxpayer engaged in trade, business/calling or profession, the shifted percentage tax on the purchase in the course of trade or business shall be treated as part of the cost of purchases or expenses in the books of accounts or records, whereas, if service-recipient is a taxpayer not engaged in trade, business/ calling or profession, or if the purchase is a purchase not in the course of trade, business/calling or profession, the shifted percentage tax shall form part of the cost or expenses for personal consumption and therefore not deductible in computing any kind of tax.

Q-26. What are the allowable input tax credits to professionals, entertainers, athletes, etc.?

A-26. The allowable input tax credits are the VAT on purchases of goods and services made in the course of trade, business/calling or profession or those that are necessary or have direct connection in the earning of the taxable receipts which are reasonable in amount compared to the declared taxable receipts, and a ratable portion of any input tax on purchases of goods and services which benefited both the activity subject to VAT and the activity not subject to VAT.

Example. - Mr. A, an actor, received a total amount of P1,100,000 from talent fees for the quarter ending December 31, 2003. At the same time, he also has four (4) units of taxicabs from which he realized P550,000. His purchases of goods/services (inclusive of VAT) from VAT-registered suppliers are as follows:

(a)	Purchases of wardrobes used in films	P 220,000
(b)	Purchase of spare parts of taxicabs	110,000
(c)	Public relations services for image build-up as an actor	88,000
(d)	Insurance premiums for taxicabs	55,000
(e)	Rental of office space used both for administering his occupation/calling and taxicab business	<u>330,000</u>
	Total Purchases of Goods/Services	<u>P 803,000</u>
		=====

In this particular example, the total amount received by Mr. A as an actor is subject to VAT in accordance with Section 108 of the Tax Code where VAT is determined by applying thereon the factor of 1/11. The amount he derived from his taxi business, on the other hand, shall be subject to the three percent (3%) common carrier's tax imposed under Section 117 of the same Code.

The net VAT due from Mr. A as well as the allocable input tax credits that may be claimed thereon is computed as follows:

Output Tax Due		P100,000.00
Total Amount Received	P1,100,000	
Less : Gross Receipts (10/11)	<u>(1,000,000)</u>	
Output Tax (1/11)	P 100,000	
	=====	
Less : Input Taxes		
(a) Directly Attributable		
(i) Purchase of wardrobes	P220,000	
(2) Public relations services	88,000	
Total Purchases	P308,000	
Multiplied by VAT factor	<u>x 1/11</u>	(P28,000.00)
(b)Purchase of service common to both the activity subject to VAT and the activity not subject to VAT Rental of office space -P330,000		
Total Gross Receipts (P1,000,000 plus P550,000) = P1,550,000		
Rule on Apportionment - P1,000,000/P1,550,000 x P330,000 =	P212,900 <u>x 1/11</u>	(P19,354.55)
Net VAT Payable		P52,645.45 =====

Note that input taxes incurred for the purchase of spare parts and insurance premiums paid for the taxi cabs cannot be deducted as input taxes because these are not in anyway connected to the pursuit of the activities of Mr. A as an actor, the activity that is subject to VAT.

For his business as common carrier, he shall be liable to percentage tax at rate of 3% of his gross receipts or P16,500 (i.e., P550,000 x 3%) imposed under Section 117 of the National Internal Revenue Code (NIRC) of 1997.

Q-27. What is the basis for computing VAT on the sale of service by professionals, GPPs, entertainers, athletes?

A-27. As provided in Section 108 of the NIRC (Tax Code) of 1997, there shall be levied, assessed and collected a value-added tax equivalent to ten percent (10%) of gross receipts derived from the sale of such services. Gross receipts means *“the total amount of money or its equivalent representing the contract price, compensation, service fee, or rental or royalty, including the*

amount charged for materials supplied with the services and deposits and advanced payments actually or constructively received during the taxable quarter/period for the services performed or to be performed for another person, excluding the value added tax”.

VAT is determined by multiplying the total amount received by 1/11. The amount derived is called “*output tax*” which is the VAT due on the sale or lease of taxable goods or properties or services of any person registered or required to register as VAT taxpayer in accordance with Section 236 of the NIRC of 1997.

Example. - Mr. X is an actor. In his profession as an actor, he received a total amount of P3,000,000 for the year ending December 2003 representing his talent fees in appearing in a full-length movie and as a mainstay in a regular TV sitcom series, fees paid to him by an advertising agency as product endorser of a well-known food product, fees for personal appearances in town or provincial fiestas.

For VAT purposes, he shall be liable to VAT at the rate of 10% of the gross receipts. The amount of P3,000,000 he received represents 110% of gross receipts which consists of the gross receipts and the 10% VAT and therefore, to compute for the VAT, the factor of 1/11 is applied on the total amount received as shown below:

Total Amount Received	P3,000,000.00
Multiply by 1/11	<u>1/11</u>
Output Tax	P 272,727.27
	=====

Q-28. How will the total amounts received for the sale of services be presented in the VAT Declarations and Returns?

A-28. For purposes of filing the monthly VAT declarations (BIR Form No. 2550M) and quarterly VAT returns (BIR Form No. 2550Q), the gross receipts must be presented separately from the output tax.

Example. - If the amount received for the taxable month amounted to P1,100,000, the taxable amount for the sale of services should be presented exclusive of the output tax.

Kind of Service	Gross Receipts For the Month	Output Tax
Professional Fees	P1,000,000	P 100,000

Q-29. Are all amounts received by professionals, actors/ actresses, talents, singers and emcees, radio and television broadcasters, choreographers, musical/radio/movie/television/stage directors, and professional athletes considered part of gross receipts subject to the imposition of VAT?

A-29. If the services of such persons are rendered under an employer-employee relationship, all remunerations received on account thereof whether these be in the form of salaries, wages, emoluments, honoraria or fees are considered as compensation income exempt from the imposition of VAT pursuant to Section 109 (o) of the NIRC (Tax Code) of 1997. One element that may establish the existence of an employer-employee relationship between the person for whom the services are rendered and the person rendering such services is when both are required to give their respective shares for SSS, Medicare and Pag-ibig Contributions.

However, amounts received on account of services rendered other than under an employer-employee relationship shall be subject to VAT under Section 108 of the NIRC (Tax Code) of 1997, subject to Section 109(z) thereof.

Example. Mr. Y, a junior bank executive, also appears as one of the news anchors of ABS-CBN Broadcasting Company where he is paid talent fees amounting to P1,000,000 a year. In such as case, the compensation he receives from the bank as an employee thereof is exempt from the VAT. However, the talent fees he receives as news anchor is subject to VAT.

Q-30. Does the imposition of VAT also apply to existing contracts of services?

A-30. Section 105 of the NIRC (Tax Code) of 1997 provides that the rule on the imposition of VAT shall apply to existing contracts of sale or lease of goods, properties or services at the time of the effectivity thereof. Since the imposition of VAT on professionals, GPPs, entertainers, and athletes became effective beginning January 1, 2003, the same shall cover existing contracts which these persons may have at the time of the effectivity date provided in RA 9010.

If pursuant to an existing contract, an actor will receive from the producer a fixed amount of P550,000 per episode as a regular talent in a weekly TV sitcom beginning the month of July 2002 to June 2003, then the amounts to be received for appearances made for the weeks starting January 2003 shall be subject to VAT. Since the VAT is an indirect tax, the same may be shifted to the customer or buyer of service.

Q-31. What happens to those services rendered prior to January 1, 2003 but will only be collected and paid on or after January 1, 2003. Will the amounts collected be subject to VAT?

A-31. The same shall not be included as part of the gross receipts subject to VAT provided that for purposes of claiming VAT-exemption the following conditions are complied with:

- (a) An information return shall be filed showing the name/s of the contractee/s, client/s, customer/s and the amount/s of contract price outstanding as of December 31, 2002, and containing a declaration to pay the applicable percentage tax due, if any;
- (b) The seller billed the unpaid amount not later than December 31, 2002 and a copy of such billing is attached to the information return required in (a) hereof;
- (c) The seller has recorded in his/its books of accounts for the year 2002 the amount receivable;
- (d) The seller issued or should issue a non-VAT invoice and/or receipt to the buyer for this purpose; and,
- (e) The seller files not later than January 20, 2003 or on or before the 20th day of the next month, depending upon the month of collection of the consideration, the regular percentage tax return for the payment of the percentage tax on payments received after 2002 (applicable to brokers only).

Failure to comply with the above-stated conditions shall automatically subject the gross receipts to VAT.

The above-mentioned guidelines equally apply to those liable to the 3% percentage tax imposed under Section 116 of the NIRC of 1997, the annual gross receipts not having exceeded P550,000 but with the exception of requirement (e) which is not necessary.

Q-32. In the case of actors, actresses, talents, singers and emcees, radio and television broadcasters, choreographers, musical/radio/movie/television/stage directors and athletes, what could be their possible sources of input tax?

A-32. Their sources of input tax may come from the purchase of apparels, accessories, cosmetics, office equipment, supplies, telecommunication expenses, fuel oil, insurance, advertising and promotions, representation, repairs and maintenance expenses for transportation vehicles as well as professional and other service fees paid for as long as these are incurred exclusively in pursuit of their profession/occupation/calling and not for personal use or consumption, duly supported by VAT-registered sales

invoices/ Official Receipts issued by the sellers of goods and services and are reasonable in amount compared to the declared gross taxable receipts.

It is to be noted, however, that input tax on purchase of apparels, accessories, cosmetics can be allowed as tax credit only to those taxpayers (i.e., actors/actresses, singers, emcees, but not in all cases) where physical appearance counts a lot in the earning of the gross taxable receipts.

Q-33. How will the gross receipts received by a GPP be treated for VAT purposes?

A-33. The GPP shall be treated as a separate and distinct taxable person from the individual partners composing the partnership. For VAT purposes, all gross receipts from the sales of services rendered by the partners for and in the name of the partnership shall be entirely taxable against the partnership. However, the sales of services made by any of the partners thereof, in his personal and individual capacity, shall not be attributed to the partnership, but shall be taxable against such partner in his individual capacity.

Q-34. What will be the sources of input tax for GPPs and those in the practice of profession such as doctors, dentists, CPA, engineers, etc. ?

A-34. Their sources of input tax may come from lease/rental payments of office spaces or purchase of office, medical, architectural, engineering, dental supplies, as the case may be, medical or dental laboratory expenses, telecommunication expenses, fuel oil, insurance, representation, repairs and maintenance expenses incurred in pursuit of their respective professions and not for personal use or consumption, duly supported by VAT registered sales invoices /Official Receipts, issued by the sellers, and are reasonable in amount compared to the declared gross taxable receipts.

Q-35. Are out-of-pocket expenses incurred by professionals, such as lawyers, which they later bill to their clients, also subject to the imposition of VAT?

A-35. Liquidation of out-of-pocket expenses/advances for clients which are mere reimbursements of costs and are chargeable to the client are not considered professional fees that are subject to VAT, provided that the receipts (ORs) for the expenses are billed in the name of the client and therefore, can be claimed only by the client as item of deduction and that the partnership advances only the amount for future liquidation by the client. For this purpose, the collection of out-of-pocket expenses from the client must be recorded as liquidation of advances for and on behalf of clients. Otherwise, they shall form part of the gross receipts of the professional.

Q-36. What is the basis in computing the percentage tax on seller of service?

A-36. The gross receipts for the month.

Q-37. Is the net distributive share in the net income of a GPP received by a partner considered for purposes of computing the P550,000 VAT threshold?

A-37. For VAT purposes, the GPP is treated as a separate and distinct taxable person from the individual partners composing the partnership. As such, in determining whether or not a professional is subject to VAT using the P550,000 VAT threshold, his receipt of the net share in the net income of the GPP of which he is partner should not be considered.

Example. - Mr. B, a lawyer, received P300,000 as his share in the net income of the GPP of which he is partner. In addition thereto, gross receipts he derived from his personal and individual practice not attributable to the partnership amounted to P400,000.

In this case, the P300,000 Mr. B derived from the GPP shall not be considered in computing the P550,000 VAT threshold. Neither shall it be subjected again to VAT or Percentage Tax. Therefore, having derived gross receipts amounting only to P400,000, Mr. B is not subject to VAT but instead subject to Percentage Tax at the rate of 3%.

Q-38. What medical, dental, hospital and veterinary services are exempt from the imposition of VAT pursuant to Section 109(1) of the NIRC (Tax Code) of 1997?

A-38. Medical, dental, hospital and veterinary services other than those rendered by professionals are exempt from VAT. Thus, in cases where the payment received by the hospital or clinic also includes the professional fee of the medical doctor, the professional fee when paid to the doctor constitutes his gross receipts inclusive of VAT which must be receipted by him using a VAT –Official Receipt.

Q-39. In the case of an Ob-Gyne (obstetrician–gynecologist) who also owns a maternity clinic, how will the payments of patients treated or confined therein be treated for VAT purposes?

A-39. Since payments received may consist of the professional fees of the Ob-Gyne, laboratory fees, charges for use of medical supplies and facilities, only that portion of payment not pertaining to the professional fees of the Ob-Gyne is exempt from VAT. For this purpose, in receiving such payments, professional fees on the services rendered by Ob-Gyne must be issued a VAT-official receipt while those appertinent to laboratory fees, use of medical facilities and supplies must be receipted using a Non-VAT Official Receipt specifically detailing the nature of the billed fees and charges attributable to the clinic; otherwise, the total amount will be treated as derived from the exercise of profession and therefore subject to VAT.

Q-40. During the transition period, what compliance requirements must be followed by the taxpayers newly covered by the VAT system starting January 1, 2003?

A-40. During the transition, the following guidelines shall be followed:

- (a.) Registration- Affected taxpayers are required to register as VAT taxpayers by registering or updating existing registration records, including specific mention of Industry Code or Occupation Code and actual industry or occupation/calling or profession of the taxpayer not later than January 31, 2003 without penalty using BIR Form No. 1905 for those who are already registered with the BIR. Those who will register for the first time shall use BIR Form No. 1901 for individuals and BIR Form No. 1903 for juridical persons.
- (b.) Unused receipts- Taxpayers who change status from NON-VAT to VAT as a result of the lapse of effectivity of RA 9010 should submit on or before January 31, 2003 an inventory of unused receipts as of December 31, 2002 indicating the number of booklets and the corresponding serial numbers. Unused NON-VAT receipts shall be allowed for use in transactions subject to VAT provided the phrase "VAT-registered as of _____" is stamped on all copies thereof. These receipts with the proper stamp shall be allowed for use in transactions subject to VAT until June 30, 2003.
- (c.) Billed but uncollected sale of services.- Amounts due on sale of services rendered on or before December 31, 2002 and becoming liable to VAT starting January 1, 2003 payment of which are due on or after that date shall be considered accrued as of December 31, 2002 for the purpose of VAT-exemption and payment of any applicable percentage tax, subject to the following conditions:
 - 1. An information return (Annex-A) shall be filed showing the name/s of the contractee/s, client/s, customer/s, and the amount/s of the contract price outstanding as of December 31, 2002, and containing a declaration to pay the applicable percentage tax due, if any;
 - 2. The seller billed the unpaid amount not later than December 31, 2002 and a copy of such is attached to the information return required in (1) hereof;
 - 3. the seller has recorded in its books of accounts for the year 2002 the amount receivable;
 - 4. The seller issued or should issue non-VAT invoice and/or receipt to the buyer for this purpose; and
 - 5. The seller files not later than January 20, 2003 or on before the 20th day of the next month, depending upon the month of collection of the consideration, the regular percentage tax return for the payment of the percentage tax on payments received after 2002 (applicable to brokers only).

Failure to comply with the above-stated conditions shall automatically subject the gross receipts to value-added tax.

- (d.) Transitional input tax credits.- For goods (other than capital goods), materials or supplies not for sale, but purchased for use in business in their present condition which are not intended for further processing and are on hand on December 31, 2002, a presumptive input tax equivalent to 8% of the value thereof, or the actual value-added tax paid on such goods, materials and/or supplies, whichever is higher, shall be allowed. For this purpose, an inventory as of December 31, 2002 of such goods, materials and/or supplies showing the quantity, description and value should be filed with the RDO not later than January 31, 2003. In recognizing presumptive input tax as of December 31, 2002, a journal entry should be made in the books debiting the input tax account and crediting the aforementioned asset accounts. Provided, however, that this paragraph does not apply to brokers;

Q-41. During the transition period, what compliance requirements must be followed by the taxpayers newly covered by the Percentage tax payment system starting January 1, 2003?

A-41. During the transition, the following guidelines shall be followed:

- (a.) Registration- Affected taxpayers are required to register or update their registration with the BIR, as NON-VAT (percentage) taxpayers, by registering or updating existing registration records with specific mention of Industry Code or Occupation Code and actual industry or occupation/calling or profession of the taxpayer not later than January 31, 2003, without penalty, using BIR Form No. 1905 for those who are already registered with the BIR. Those who will register for the first time shall use BIR Form No. 1901 for individuals and BIR Form No. 1903 for juridical persons.
- (b.) Billed but uncollected sale of services.- Amounts due on sale of services rendered on or before December 31, 2002 and becoming liable to percentage tax starting January 1, 2003 payment of which are due on or after that date shall be considered accrued as of December 31, 2002 for the purpose of tax-exemption, subject to the following conditions:
1. An information return (Annex A) shall be filed showing the name/s of the contractee/s, client/s, customer/s, and the amount/s of the contract price outstanding as of December 31, 2002, and containing a declaration to pay the applicable tax due, if any;
 2. The seller billed the unpaid amount not later than December 31, 2002 and a copy of such is attached to the information return required in (1) hereof;
 3. The seller has recorded in its books of accounts for the year 2002 the amount receivable;
 4. The seller issued or should issue non-VAT invoice and/or receipt to the buyer for this purpose.

Q-42. Revenue Regulations No. 1-2003 allows transitional input tax credits equivalent to 8%. How is this computed and how is this claimed as a tax credit?

A-42. For those who have just been covered by the VAT System, as in the case of professionals, GPPs, entertainers and athletes, the Regulations provide a presumptive input tax of 8% of the value of goods (other than capital goods), materials or supplies not for sale but purchased for use in the exercise of their profession/calling and are on hand as of December 31, 2002 or the actual VAT (input tax) paid on such goods, materials, or supplies, whichever is higher, to be credited (deducted) against the output tax due on gross receipts realized beginning January 1, 2003, provided that an inventory list of such goods, materials, or supplies showing the quantity, description and value should be filed with the appropriate RDO not later than January 31, 2003.

All internal revenue officers and employees are hereby enjoined to give this Circular as wide a publicity as possible.

(Original Signed)
GUILLERMO L. PARAYNO, JR.
Commissioner of Internal Revenue