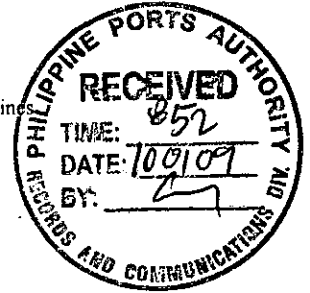




SEP 30 2009

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PPA Administrative Order
Number 05 - 2009

TO : All Port District Managers, Port Managers, Shipping Companies, Cargo Handling Operators, Port Operators, RC Heads/Others Concerned

SUBJECT : **Clarificatory Guidelines on Value Added Tax (VAT)**

1. Authority

- 1.1. Republic Act (R.A.) No. 7716 dated May 5, 1997 as amended by R.A. 8241 and R.A. 9337
- 1.2. Revenue Memorandum Circular No. 20-88
- 1.3. Revenue Memorandum Circular No. 3-96
- 1.4. Revenue Memorandum Circular No. 8-99
- 1.5. Revenue Memorandum Circular No. 2-2004
- 1.6. Revenue Memorandum Circular No. 7-2006
- 1.7. Revenue Regulations No.7-95
- 1.8. Revenue Regulations No. 8-2002
- 1.9. Revenue Regulations No. 16-2005
- 1.10. Revenue Regulations No. 4-2007
- 1.11. BIR Ruling No. 011-2006

2. Coverage

These guidelines cover all revenues collected by the Philippine Ports Authority.

3. Purpose

This is issued to ensure an efficient and accurate imposition and collection of Output VAT from PPA clients, from which the Input VAT paid by PPA to its suppliers and contractors can be recovered/reimbursed, and to ensure the proper remittance of any excess VAT to the Bureau of Internal Revenue (BIR) in compliance with R.A. No.7716, as amended by R.A. 8241 and R.A. 9337.

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VISION

MISSION

By 2010, PPA shall have met the international standards in port facilities and services in at least ten (10) ports in support of national development.

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We commit to provide reliable and responsive services in our ports, sustain development of our port communities and the environment, and be a model corporate agency of the government.

4. Definition of Terms

- 4.1. **Revenues Subject to 12% VAT** includes all receipts of PPA for the rendition of port services, leasing of properties, and all other non-traditional revenues earned from its regular course of business, except for zero-rated and effectively zero-rated revenues as defined herein.
- 4.2. **Zero-Rated Revenues** are revenues subject to 0% VAT which pertains to revenue from services rendered to persons engaged in international shipping or air transport operations, including lease of property for use thereof; *Provided, however,* that the services referred to herein shall not pertain to those made to common carriers by air and sea relative to their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines, the same being subject to 10% VAT (12% VAT effective February 2006) under Sec. 108 of the Tax Code.
- 4.3. **Effectively Zero-Rated Revenues** are revenues subject to 0% VAT on services rendered to a person or entity granted indirect tax exemption under special laws or international agreement, subject to the conditions and period imposed by BIR.

The seller/revenue earner (PPA-PMO) must seek prior approval or prior confirmation of the BIR so that a transaction is qualified for effective zero-rating. Without an approved application for effective zero-rating, the transaction otherwise entitled for zero-rating shall not be allowed tax credit of Input VAT on purchases/expenditures of PPA.

- 4.3. **VAT-Exempt Revenues** refer to the revenue from the sale of goods or properties and/or services and the use or lease of properties that is not subject to VAT (Output VAT). The seller/revenue earner is not allowed any tax credit of Input VAT on its purchases/expenditures.

5. VAT Taxability of PPA Revenues Pursuant to BIR Ruling No. 011-2006

By virtue of BIR Ruling No. 011-2006 issued by the Bureau of Internal Revenue for the Philippine Ports Authority, clarifying the applicability of the VAT laws and its implementing guidelines to port services, provided herein are the following kinds of revenues for VAT taxation purposes.

5.1. Revenues Subject to 12% VAT

All revenues of PPA are subject to 12% VAT except the Zero-Rated Revenues and Effectively Zero-Rated Revenues, as provided in Sections 5.2 and 5.3 hereof, to wit:

Cargo Charges (foreign and domestic cargoes)

5.1.1. Wharfage Dues

5.1.2. Storage Fees

Vessel Charges on vessels engaged in domestic trade

5.1.3. Usage Fees

5.1.4. Lay-up Fees

5.1.5. Vessel Traffic Management Service Fees

5.1.6. Government Share on Stevedoring Fees

5.1.7. Government Share on Pilotage Fees

5.1.8. Other vessel charges on vessels engaged in domestic trade

Other Charges

5.1.9. Government Share on the gross income (arrastre, stevedoring and other cargo handling charges) collected by and remitted to PPA by Cargo Handling Operators/Terminal Operators in the form of fixed fees, variable fees and/or percentage government share.

5.1.10. Rental/lease charges on the land, reclaimed areas, buildings, warehouses, transit sheds, dredgers, cargo handling equipments, heavy machineries and other properties.

Advance rental, which constitute a pre-paid rental, is subject to 12% VAT upon receipt of such payment.

Rental deposit, being in the nature of security deposit (recorded as Customers Deposit), is not subject to VAT at the time of its receipt, however, it shall be subject to 12% VAT at the time it is applied to rental payment. For expediency, PPA may collect the amount equivalent to 12% VAT and record it likewise as Customers Deposit so that upon application to rental payment or other monetary obligations of the lessee, that amount will be recorded and remitted to BIR as Output VAT without the need for additional collection from the lessee.

- 5.1.11. Management/Commitment/Collection Fees
- 5.1.12. Professional/Consultancy Fees
- 5.1.13. Service Contract Fees
- 5.1.14. Electricity and Water Consumption Charges
- 5.1.15. Permit Fees
- 5.1.16. Private Port Privilege Fees
- 5.1.17. All other dues, fees and charges

5.2. **Revenues Subject to 0% VAT (Zero-Rated Revenues)**

The following charges on services rendered to persons **engaged in international shipping** are zero-rated provided that it is directly collected by PPA and issued PPA Official Receipts (Zero-Rated) with the Payee indicated as:

- "Name of Vessel Owner" with TIN of Vessel Owner; or
 - "Names of Vessel Owner (Charterer)" with TIN of Charterer; or
 - "Names of Vessel Owner (Ship Agent)" with TIN of Ship Agent
- 5.2.1. Port Dues
 - 5.2.2. Dockage Fees
 - 5.2.3. Lay-up Fees
 - 5.2.4. Vessel Traffic Management Service Fees

- 5.2.5. Government Share on Stevedoring Fees directly collected and received by PPA
- 5.2.6. Government Share on Pilotage Fees directly collected and received by PPA
- 5.2.7. Other vessel charges on vessels engaged in international trade

The Government Share remitted by a Service Provider and received by PPA, with the PPA Official Receipt issued under the name of the Service Provider, is subject to 12% VAT since the nature of the transaction has changed to rendition of collection service as a business agent.

5.3. **Revenues which are Effectively Zero-Rated**

The following port charges are effectively zero-rated provided they are directly collected by PPA and issued PPA Official Receipts under the name of the cargo owner and subject to the conditions and period approved by BIR, to wit:

- 5.3.1. Port Charges on services **rendered inside the Economic Zone** to persons or entities who are tax-exempt under special laws such as PEZA/SBMA/CDC registered enterprises but subject to the conditions and period approved by BIR.
- 5.3.2. Port Charges on services rendered to persons or entities **covered by international agreement** to which the Philippines is a signatory such as Asian Development Bank (ADB), International Rice Research Institute (IRRI), foreign embassies, etc. but limited to the period covered by the BIR approval.

5.4. **Revenues which are VAT Exempt**

There are no more VAT-exempt port charges/revenues of PPA upon the effectivity of Revenue Memorandum Circular No. 2-2004.

The enumeration of VAT-Exempt Transactions under Section 4 of R.A. No. 7716/Section 4 of R.A. No. 8241/Section 7 of R.A. No. 9337 do not include any port-related services.

5.5. **Illustration: Sample I**

M/V Foreign Vessel owned by XYZ Foreign Shipping Line berthed at the Port of Davao and proceeded to the Port of Zamboanga to unload foreign cargoes thereat.

PMO Davao

| | | |
|----------------|---|---------------------------------------------------------------------------------------------|
| Payee | : | XYZ Foreign Shipping Line |
| Vessel | : | M/V Foreign Vessel (unloading) |
| Vessel Charges | : | Port Dues + 0% VAT Dockage Fee + 0% VAT Government Share on Stevedoring Fees + 0% VAT |
| Cargo Charges | : | Wharfage Fee + 12% VAT |

PMO Zamboanga

| | | |
|----------------|---|----------------------------------------------------------------------------------------------|
| Payee | : | XYZ Foreign Shipping Line |
| Vessel | : | M/V Foreign Vessel (unloading) |
| Vessel Charges | : | Port Dues + 0% VAT Dockage Fees + 0% VAT Government Share on Stevedoring Fees + 0% VAT |
| Cargo Charges | : | Wharfage dues + 12% VAT |

Illustration: Sample II

M/V Foreign Vessel owned by XYZ Foreign Shipping Line berthed at the Port of Davao and unloaded foreign cargoes. Portion of the foreign cargoes are loaded to M/V Domestic Vessel and unloaded the foreign cargoes at Port of Zamboanga.

PMO Davao

| | | |
|----------------|---|---------------------------------------------------------------------------------------------|
| Payee | : | XYZ Foreign Shipping Line |
| Vessel | : | M/V Foreign Vessel (unloading) |
| Vessel Charges | : | Port Dues + 0% VAT Dockage Fee + 0% VAT Government Share on Stevedoring Fees + 0% VAT |
| Cargo Charges | : | Wharfage Fee + 12% VAT |

| | | |
|----------------|---|------------------------------------------------------------------------|
| Payee | : | ABC Domestic Shipping Line |
| Vessel | : | M/V Domestic Vessel (loading) |
| Vessel Charges | : | Usage Fees + 12% VAT Government Share on Stevedoring Fees + 12% VAT |
| Cargo Charges | : | Wharfage dues + 12% VAT |

PMO Zamboanga

| | | |
|----------------|---|------------------------------------------------------------------------|
| Payee | : | ABC Domestic Shipping Line |
| Vessel | : | M/V Domestic Vessel (Unloading) |
| Vessel Charges | : | Usage Fees + 12% VAT Government Share on Stevedoring Fees + 12% VAT |
| Cargo Charges | : | Wharfage dues + 12% VAT |

6. Guiding Policies

- 6.1. The VAT law provides that VAT is an indirect tax which can be legally shifted or passed on to the buyer, transferee or lessee of the goods, properties or services.
- 6.2. For the port tariff, fees and dues which are subject to 12% VAT but quoted exclusive of VAT, the 12% VAT shall be levied/collected in addition to the basic tariff/charges.
- 6.3. In cases where fees/dues like terminal fee, parking fee, etc. are agreed with the port user-industry to be VAT-inclusive, the basic revenue and the corresponding VAT shall be separated/computed as follows:

Illustration:

| | | |
|----------------------------------------------------------------|---|-------|
| VAT inclusive Terminal Fee | ₱ | 25.00 |
| 12% VAT (computed as: $P25 \div \text{VAT Factor}$ 9.33333) | ₱ | 2.68 |
| Basic Revenue/Terminal Fee | ₱ | 22.32 |

- 6.4. The imposition of the 12% VAT shall always be based on the amount of the basic revenue.
- 6.5. It is understood that a transaction exempted from port charges has no tax base, hence, there is no corresponding VAT.
- 6.6. Any partial payment for "port charge/revenue subject to 12% VAT" shall always be treated as "revenue + 12% VAT."

To Illustrate:

| | | |
|----------------------|---|-----------------|
| Port Charges/Revenue | ₱ | 2,000.00 |
| 12% VAT | | <u>240.00</u> |
| Total Amount Due | ₱ | <u>2,240.00</u> |

Port user made partial payment of P2,000.00 only; The payment shall be recorded as :

| | | |
|--------------------------------------------------------------------------|---|-----------------|
| Cash | P | 2,000.00 |
| 12% VAT (computed as: $\text{P}2,000 \div \text{VAT Factor } 9.33333$) | | <u>214.29</u> |
| Port Charges/Revenue | P | <u>1,785.71</u> |
| Accounts Receivable-Trade | P | 240.00 |
| 12% VAT (computed as: $\text{P}240.00 \div \text{VAT Factor } 9.33333$) | | <u>25.71</u> |
| Port Charges/ Revenue | P | <u>214.29</u> |

7. Reporting Mechanics

- 7.1. Section 4.114-1D of Revenue Regulations No. 16-2005 provides that only one consolidated VAT Declaration and VAT Return shall be filed by a company for all the branches and lines of businesses subject to Value Added Tax for every return period.
- 7.2. The detailed mechanics for the centralized electronic reporting, filing and remittance of Value Added Tax are prescribed in PPA Finance Memorandum Order No. 03-2007 entitled "Revised Guidelines on the Preparation, Filing and Remittance of the Value Added Tax" and its amendments.

8. Repealing Clause

This Administrative Order amends PPA Memorandum Circular No. 08-2004 and all the other PPA Orders, Circulars and issuances or provisions thereof inconsistent herewith are hereby amended/modified accordingly.

9. Effectivity

This Order shall take effect immediately.

For strict compliance

ATTY. OSCAR M. SEVILLA
General Manager