REVENUE MEMORANDUM CIRCULAR NO. 105-2018 issued on December 19, 2018 clarifies the payment of Excise Tax on domestic coal under Revenue Regulations (RR) No. 1-2018, which provides for the revised tax rates on mineral products pursuant to the provisions of the TRAIN Law, amending for the purpose RR No. 13-94.

Excise Tax on coal is a tax levied on the product, rather than on the performance, carrying on or the exercise of an activity, such as mining of coal. The general rule is that the producer of a product is the one liable for the Excise Tax thereon. However, since the Excise Tax is attached to the product itself, if the tax is unpaid and possession is transferred to the buyer, the buyer/possessor of the product can be made liable for the Excise Tax.

Relative thereto, the second paragraph of Section 130 (A) (1) of the National Internal Revenue Code of 1997, as amended, states that “Should domestic products be removed from the place of production without the payment of the tax, the owner or person having possession thereof shall be liable for the tax due thereon.” In said situations, the producer shall act as collecting agent of the tax due from the first buy/possessor and remit the same to the BIR using BIR Form 2200 M (Excise Tax Return for Mineral Products) reflecting therein the buyer’s name and the TIN.

In view of the foregoing, the following shall be enforced:

- In the event that the Excise Tax on locally-produced coal is not paid by the producer of the product, the Excise Tax due thereon shall be collected from the first buyer/possessor.

- The Excise Tax collected from the buyer/possessor shall be reflected separately in the invoice issued by the producer covering the coal sold. This amount collected from the first buyer/possessor shall be payable to the BIR and shall not form part of the selling price of the coal. The Excise Tax due to the BIR shall be extinguished upon remittance of the same by the producer to the BIR.

- As a collecting agent of the Excise Tax due from the first buyer/possessor, the producer shall file via BIR Electronic Filing and Payment System and remit Excise Tax to the BIR using BIR Form 2200 M, as prescribed under RR No. 1-2002, within ten (10) days from the date of such sale, transfer or disposition, together with the submission of relevant documents proving the transfer of disposition.

- Finally, in the case of a producer subject to Excise Tax, such producer shall be subject to all the administrative and reportorial requirements as prescribed under applicable existing rules and regulations.

The Excise Tax due on domestic coal removed for domestic consumption shall be collected by the producer of the domestic coal from the first buyer/possessor effective January 1, 2018 (effectivity of the TRAIN Law). The producer shall remit on or before December 31, 2018 to the BIR the amount of Excise Tax on domestic coal collected from the first buyer/possessor covering the period January 1, 2018 to November 30, 2018 using BIR Form 2200 M, without increments (surcharge and interest) if settled within the herein prescribed period. Henceforth, Excise Tax collected by the producer on domestic coal removed and sold for domestic consumption shall be filed/remitted within 10 days from the date of sale, transfer or disposition.

The producer of the domestic coal shall provide to the BIR the data on the production, volume of removal and sale covering the period January 1, 2018 to
November 30, 2018 for the determination of the amount of Excise Tax to be remitted to the BIR. A separate revenue issue shall be issued covering Excise Tax treatment on domestic coal removed for export.