REVENUE MEMORANDUM CIRCULAR NO. 49-2003 issued on August 27, 2003 amends the answer to Question No. 17 of RMC No. 42-2003 as well as provides additional guidelines on issues relative to the processing of claims for Value-Added Tax (VAT) credit/refund, including those filed by direct exporters with the Tax and Revenue Group of the Department of Finance’s One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center (OSS-DOF).

In cases where the taxpayer has filed a “Petition for Review” with the Court of Tax Appeals involving a claim for refund/Tax Credit Certificate (TCC) that is pending at the administrative agency (Bureau of Internal Revenue or OSS-DOF), the administrative agency and the tax court may act on the case separately. While the case is pending in the tax court, and at the same time, is still under process by the administrative agency, the litigation lawyer of the BIR, upon receipt of the summons from the tax court, shall request from the head of the investigating/processing office for the docket containing certified true copies of all the documents pertinent to the claim. The docket shall be presented to the court as evidence for the BIR in its defense on the tax credit/refund case filed by the taxpayer. In the meantime, the investigating/processing office of the administrative agency shall continue processing the refund/TCC case until such time that a final decision has been reached by either the CTA or the administrative agency.

If the CTA is able to release its decision ahead of the evaluation of the administrative agency, the latter shall cease from processing the claim. On the other hand, if the administrative agency is able to process the claim of the taxpayer ahead of the CTA and the taxpayer is amenable to the findings thereof, the concerned taxpayer must file a motion to withdraw the claim with the CTA. A copy of the positive resolution or approval of the motion must be furnished the administrative agency as a prerequisite to the release of the tax credit certificate/tax refund processed administratively.

However, if the taxpayer is not agreeable to the findings of the administrative agency or does not respond accordingly to the action of the agency, the agency shall not release the refund/TCC unless the taxpayer shows proof of withdrawal of the case filed with the tax court. If, despite the termination of the processing of the refund/TCC at the administrative level, the taxpayer decides to continue with the case filed at the tax court, the litigation lawyer of the BIR, upon the initiative of either the Legal Office or the Processing Office of the Administrative Agency, shall present as evidence against the claim of the taxpayer the result of investigation of the investigating/processing office.

For pending claims which have not been acted upon by the investigating/processing office due to incomplete documentation, the taxpayer-claimants are given 30 days within which to submit the documentary requirements unless given further extension by the head of the processing unit, but such extension should not exceed thirty (30) days.

For claims to be filed by claimants with the respective investigating/processing office of the administrative agency, the same shall be officially received only upon submission of complete documents.

For current and future claims for tax credit/refund, the same shall be processed within 120 days from receipt of the complete documents. If, in the course of the investigation and processing of the claim, additional documents are required for the proper determination of the legitimate amount of claim, the taxpayer-claimants shall
submit such documents within 30 days from request of the investigating/processing office.