REVENUE MEMORANDUM CIRCULAR NO. 31-2006 issued on May 30, 2006

prescribes the guidelines for the grant of Value-Added Tax (VAT) exemption on the local purchase of goods and services or materials associated with the construction or renovation of the diplomatic properties of the Embassy of the United States of America (U.S. Embassy) in the Philippines.

For the U.S. Embassy’s pending major construction/renovation projects, the USA Department of State will select a private American firm to serve as its Construction Agent. The Bureau of Internal Revenue (BIR) shall recognize the Construction Agent chosen by the U.S Department of State, upon receipt of a Note Verbale from the U.S. Embassy in the Philippines, duly indorsed by the DFA, with the information as to the name of such entity and accompanied with a copy of the following:

a. The contract establishing the agency relationship between the U.S. Embassy in the Philippines and the American firm; and
b. The Special Power of Attorney (SPA) executed by the U.S. Embassy in favor of such American firm. The SPA shall specifically state the name of the particular project for which the American firm is granted the power to act as a construction agent and the fact and extent to which such construction agent is authorized to make purchases for the U.S. Embassy project. The name of the American firm and a copy of its SPA shall be duly circularized for the information of all Bureau officials and personnel concerned.

As a separate entity, the Construction Agent shall be taxed in accordance with the provisions of the National Internal Revenue Code (NIRC) or relevant tax treaty, as applicable.

The Bureau shall only recognize subcontractors or vendors for the project, based on a notification made by the U.S. Embassy through a Note Verbale, favorably indorsed by the DFA, prior to the beginning of the projects. Additional subcontractors’ and vendors’ names should also be submitted to the BIR through a Note Verbale, following the same procedure specified above.

The Construction Agent shall be allowed to make local purchases of supplies, goods and services, for and on behalf of the U.S. Embassy and avail of VAT exemption on the purchases of the embassy, at the point of sale, on the strength of the VAT Exemption Certificate issued by the BIR to the U.S. Embassy.

The sale to the Construction Agent, acting on behalf of the U.S. Embassy, of goods and services for the specific construction/renovation projects covered by the Circular shall be considered as zero-rated transactions, pursuant to the provisions of Revenue Regulations (RR) No. 16-2005.

This Circular shall serve as a sufficient basis to entitle such supplier of goods, property or services to the benefit of the 0% VAT for sales made to the U.S. Embassy in relation to the subject construction/renovation projects, and shall serve as sufficient compliance to the requirement for prior approval of zero-rating imposed by RR No. 16-2005.

Suppliers of the U.S. Embassy for the projects must issue a VAT invoice/receipt for each sale, which shall contain the following information:

a. Name of the seller and a statement that such seller is a VAT-registered person, followed by his Tax Identification Number (TIN);
b. Name and address of the Construction Agent, together with the words, “for the account of the U.S. Embassy in the Philippines”;

c. Current and valid VAT Exemption Certificate Number of the U.S. Embassy in the Philippines;

d. The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT, Provided, that:
   i. The amount of tax shall be shown as a separate item in the invoice or receipt;
   ii. The term “ZERO RATED SALE” is written or printed prominently on the face of the invoice/receipt.

e. The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service.

Non-VAT Suppliers from whom purchases were made shall, on the other hand, issue a non-VAT invoice / receipt. In such a case, there is a Percentage Tax, which shall form part of the cost of the goods or services sold to the Embassy.

As a method of controlling and protecting the U.S. Embassy’s eligibility for tax relief privileges, a representative from the Embassy shall review/validate the invoices for such purchases and annotate the Embassy’s certification that the purchases are in fact associated with the completion of the construction/renovation project.

Photocopies of invoices approved by the U.S. Embassy shall also be submitted to Revenue District Office (RDO) No. 50, Pasay City for verification on a monthly or quarterly basis.

In the event a subcontractor or vendor does not honor the VAT exemption of the Embassy through its construction agent at the point of sale, the Chief of International Tax Affairs Division (ITAD) will render assistance to the U.S. Embassy and its agent in solving such matters and issue a certification, signed by the Assistant Commissioner of the Legal Service to confirm the exemption.

Materials imported for use in the construction or renovation of the Embassy’s facilities in the Philippines shall be consigned to the U.S. Embassy and not to its Construction Agent.

Pertinent provisions of Revenue Memorandum Order No. 22-2004 and of other relevant revenue issuances which are inconsistent with the provisions of this Circular are hereby revised or amended accordingly, but only insofar as they apply to the subject matter of the Circular.