REVENUE REGULATIONS NO. 6-2012 issued on April 2, 2012 clarifies the taxation on the sale of gold and other metallic minerals to Bangko Sentral ng Pilipinas (BSP) and other persons or entities, amending Revenue Regulations (RR) No. 7-2008, and further amending RR No. 2-98.

Metallic minerals are subject to 2% Excise Tax rate based on either the actual market value of the gross output thereof at the time of removal, in case of those locally extracted or produced; or the value used by the Bureau of Customs in computing tariff and duties, in case of importation. Possessors of said metallic minerals must be able to show proof that the Excise Tax has been paid thereon, otherwise, they shall be assessed and be held liable for the payment thereof.

Sale of metallic minerals to persons and entities, except sale of gold to the BSP, is subject to 12% Value-Added Tax (VAT) if the value thereof exceeds the threshold set by the 1997 Tax Code and existing issuance. Sale of gold to the BSP is subject to 0% VAT if the seller is a VAT registered taxpayer.

Sellers are subject to Income Tax at the rate prescribed under Section 24 (A), in case of individual taxpayers, and under Section 27 (A) of the 1997 Tax Code, in the case of corporations. Further, buyers of said metallic minerals are required to withhold 5% of gross payments made and remit the same to the Government.

In order for a seller/possessor of said metallic mineral to be able to claim the costs of said metallic mineral, said seller/possessor must be able to show proof of withholding and remittance of the 5% Withholding Tax on said product, otherwise all claimed costs and expenses associated therewith shall be disallowed.

All buyers of metallic minerals are hereby constituted as agents for the collection of 2% Excise Tax on metallic minerals and the 5% Creditable Withholding Tax thereon. All penalties under existing laws and regulations shall attach to buyers who fail to withhold and/or pay said taxes.

The BSP, regardless whoever is selling, is obliged to collect the 2% Excise Tax on the actual market value of the gold sold to it, regardless of the purchase price it paid for the transaction, and remit the same to the BIR. If the seller is able to produce proof of payment of Excise Taxes on said goods, the BSP shall not be liable anymore for payment of Excise Taxes.

BSP is likewise obliged to withhold and remit to the BIR the Creditable Withholding Taxes due from the sale, regardless whoever is selling. The withholding tax return shall be filed and payment shall be made within 10 days after the end of each month, except for taxes withheld for the month of December, which shall be filed on or before January 15 of the following year.

However, if the BSP availed of the Electronic Filing and Payment System (EFPS), the deadline for electronic filing of the applicable withholding tax returns (BIR Form No. 1601-E) and payment of taxes due thereon remains on the 15th day of the following month.