REVENUE REGULATIONS NO. 5-2013 issued on April 22, 2013 prescribes the tax treatment of sale of jewelry, gold and other metallic minerals to a non-resident alien individual not engaged in trade or business within the Philippines or to a non-resident foreign corporation.

The following taxes are imposed:

a. On the sale of gold and other metallic minerals as prescribed under Revenue Regulations (RR) No. 6-2012.—

i. Excise Tax – Two Percent (2%) Excise Tax rate based on either the actual market value of the gross output at the time of removal, in the case of those locally extracted or produced; or the value used by the Bureau of Customs (BOC) in computing tariff and duties, in the case of importations. Possessors of gold and other metallic minerals must show proof that the Excise Tax has been paid thereon; otherwise, they shall be assessed and be held liable for the payment thereof. Gold and other metallic minerals discovered in the possession of the persons who cannot show proof of payment of Excise Taxes thereon are presumed to have been removed on the day of discovery. Accordingly, possessors of gold and other metallic minerals, whether imported or local, must be able to show certified true copy of the following: 1) Authority to Release Imported Goods and Import Entry and Internal Revenue Declaration and Official Receipt issued by the BOC, for imported goods; and 2) Excise Tax Return (BIR Form No. 2200M) and machine validated deposit slip of the bank where the payment and filing has been made, for locally bought gold and other metallic minerals. Absent the said proof, possessors of gold and other metallic minerals shall be held liable for the Excise Taxes due thereon.

ii. Value-Added Tax/Percentage Tax - Sales of gold and other metallic minerals to persons and entities, except sale of gold to the Bangko Sentral ng Pilipinas, is subject to 12% VAT if the gross selling price thereof exceeds the threshold set by the Tax Code and existing issuances, currently in the amount of ₱ 1,919,500 pursuant to RR No. 3-2012. Otherwise, it shall be subject to 3% Percentage Tax.

iii. Income Tax- Sellers are subject to Income Tax at the rate prescribed under Sections 24 and 25, in case of individual taxpayers, and under Sections 27 and 28 of the Tax Code, in case of corporations. Further, sellers of said gold and other metallic minerals are required to pay the Income Tax in advance (creditable) to the government.

b. On the sale of jewelry

i. Value-Added Tax/Percentage Tax- Sales of jewelry to persons and entities is subject to 12% VAT if the gross selling price thereof exceeds the threshold set by the Tax Code and existing issuances, currently in the amount of ₱ 1,919,500 pursuant to RR No. 3-2012. Otherwise, it shall be subject to 3% Percentage Tax.

ii. Income Tax- Sellers are subject to Income Tax at the rate prescribed under Sections 24 and 25, in case of individual taxpayers, and under Sections 27 and 28 of the Tax Code, in case of corporations. Further, sellers of said jewelry are required to pay the Income Tax in advance (creditable) to the government.

Sellers of jewelry, gold, and other metallic minerals are hereby required to pay business tax (VAT or Percentage Tax), Income Tax and Excise Tax, if applicable, in advance through the assigned Revenue Collection Officers (RCO) of the Revenue District Office (RDO) having jurisdiction over the place where the subject transaction occurs regardless of whether or not said sellers are duly registered with the BIR.
a. Advance payment of VAT at the rate of 12% on gross selling price or Percentage Tax at the rate of 3% on gross sales, as the case may be.
b. Advance payment of Income Tax at the rate of 5% on gross payment.
c. Actual payment of Excise Tax at the rate of 2% based on either the actual market value of the gross output at the time of removal, in the case of those locally extracted or produced; or the value used by the BOC in computing tariff and duties, in the case of importations. For purposes of these Regulations, the actual market value shall refer to the actual consideration paid by the buyer to the seller.

Existing issuances to the contrary notwithstanding, RCOs are authorized to receive advance payments of business (VAT or Percentage Tax) and Income Taxes and actual payment of Excise Tax due from subject sellers and to issue the corresponding Revenue Official Receipt (ROR), regardless of whether or not the sellers are registered with their respective RDOs.

The advance payments shall be credited against the actual business tax (VAT or Percentage Tax, as the case may be) and Income Tax due from such persons for the taxable period for which such advance payments were remitted to the BIR.

If the seller of jewelry, gold and other metallic minerals is a non-VAT taxpayer whose gross sales/receipts does not exceed the threshold amount of ₱1,919,500 in any 12-month period and therefore, liable to the 3% Percentage Tax imposed under Section 116 of the Tax Code, such advance business tax paid shall be credited against the Percentage Tax due from such seller for the month for which such advance payment was collected. If the seller of jewelry, gold and other metallic minerals, on the other hand, is a VAT registered taxpayer, in addition to the input tax credits allowed by the Tax Code, the amount of advance VAT paid shall be allowed as credit against the VAT liability or payable by the sellers.

The amount of advance Income Tax paid shall be credited against the Income Tax due from the seller when he files his quarterly and annual Income Tax Return. The advance payment of business tax and Income Tax shall be evidenced by duly validated copy of BIR Form No. 0605 and ROR issued by the RCOs, which shall constitute as the proof for credit of the advance payment of taxes. Without such proof attached to the tax returns, any claim on account thereof shall be disallowed and the assessment of taxes shall correspondingly be made.

The implementing guidelines relative to the conduct of tax enforcement as well as the duties and obligations of non-resident alien individual not engaged in trade or business within the Philippines or non-resident foreign corporation; and of owners and operators of hotels, inns, or establishments where the alien individuals or foreign corporation buyers conduct the subject transaction are specified in the Regulations.