



Republic of the Philippines  
National Electrification Administration

13 July 2010

**MEMORANDUM No. 2010-017**

**TO : ALL ELECTRIC COOPERATIVES (ECs)**

**SUBJECT : Remittance of VAT Collections**

\*\*\*\*\*

**I. Rationale**

Revenue Memorandum Circular No. 61-2005 of the Bureau of Internal Revenue (BIR) "Clarifying the VAT Provisions of Republic Act (R.A.) 9337 Applicable to the Power Industry" states that generation, transmission and distribution companies as well as electric cooperatives shall be subject to the value-added-tax on their sale of electricity effective November 01, 2005 pursuant to the provision of Section 108 of the Tax Code as amended by R.A. 9337.

Section 108(A) of the Tax Code, as amended, imposes a value added tax equivalent to ten percent (10%) of gross receipts derived from the sale or exchange of services, including the use or lease of properties. The 10% VAT was raised to 12% by the President effective January 1, 2006.

**II. Standard Procedures and Guidelines**

Pursuant to R.A. 9136 and Section 18 of R.A. 7638, the Energy Regulatory Commission (ERC) is vested the power and authority to determine, fix and regulate the rates charged by all electric distribution utilities (DUs), the National Power Corporation (NPC) and the National Transmission Corporation (TRANSCO).

In the ERC Resolution No. 20, Series of 2005, the ERC established the general principles in the implementation of R.A. 9337 by allowing the Generation Companies (GC), TRANSCO and all DUs to impose the appropriate VAT rate. Among others are as follows:

- a. The GC and TRANSCO shall bill the end-user through the DUs for the sale and transmission of electricity and ancillary services including the VAT thereon;

- b. The amount collected from the end-user for such charges shall not form part of Gross Receipt (GR) of the DUs and shall not be claimed by the DUs as input tax;
- c. The amount collected from the end-user as payment for the generation and transmission charges including the VAT thereon shall form part of the GR and output VAT of the GC and TRANSCO, accordingly;
- d. The reckoning of the sale subject to VAT between the GC and TRANSCO to the end-user shall be upon collection on the billing made by the DUs;
- e. The DUs shall bill the end-user for the corresponding VAT on the sale and transmission of electricity. The said VAT is neither part of the DUs GR nor input VAT. The DU shall ensure it is revenue neutral in its collection of the said VAT. The VAT on the current month's sale and transmission of electricity shall be billed to the end-users on the next billing cycle;
- f. The VAT on the allowable System Loss shall be computed on the proportionate share of the transmission component and the generation share from non-renewable sources. The VAT on system loss above the cap shall be shouldered by the DU; and
- g. The VAT collected by the DU on generation, transmission and system loss shall be remitted to the concerned GC and TRANSCO, which in turn, shall be responsible for the tax due to the BIR.

In compliance with the Tax code, as amended by R.A. 9337 and ERC Resolution No. 20, Series of 2005, the ECs are obliged to remit all VAT collected on generation, transmission and system loss to the concerned GC and TRANSCO.

Based on PSALM's Status of Power Receivables as of 30 April 2010, there are 46 ECs which have outstanding VAT payables to NPC/PSALM.

All ECs therefore are directed to reconcile, settle or request PSALM for the restructuring of said VAT accounts to avoid disconnection from the grid based on the DOE Circular No. DC 2010-05-0006 re: Terminating the Default Wholesale Supplier Arrangement for the Philippine Wholesale Electricity Spot Market (WESM) and Declaring a Disconnection Policy.

Finally, please be reminded that the BIR shall conduct audit/examination of tax dues of ECs to determine liability and accountability to the National Government.

For strict compliance.

  
**EDITA S. BUENO**  
Administrator

NATIONAL ELECTRIFICATION  
ADMINISTRATION

IN REPLYING, PLS. CITE: #OR016775



NER- OR016775

*rl*  
*7/13/10*