



Tax Law
for
Business

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The "tiangge" chronicles

It has been said that the Philippines has the longest Christmas season. As early as October, Filipinos flood shopping malls hoping to find good-buys for gifts for the coming holidays. Due to the increasing number of early Christmas shoppers, weekend tiangge, bazaars and flea markets instantly bloom in almost every corner of the metro aiming to take advantage of the high traffic of shoppers. These tiangge with their comparatively lower prices and variety of wares attract not only early Christmas shoppers but also a number of bargain hunters who are always on the lookout for an unorthodox shopping experience.

The growing popularity of these places, however, had caught the attention of the Bureau of Internal Revenue (BIR). The bureau has employed new schemes to plug revenue leakages and to generate additional revenue sources from these new breed of enterprises.

The tiangge, also known as "privilege store," is a stall or outlet, which is not registered with the BIR, not permanently fixed to the ground, and is normally set up in places like shopping malls, hospitals, office buildings, hotels, villages or subdivisions, churches, parks, sidewalks, streets and other public places, for the purpose of selling a variety of goods/services for short durations of time or special events. The duration should not exceed six months in any taxable year.

Revenue Regulations (RR) 16-03 requires the operators of these tiangge to pay using BIR Form No. 0605 an advance income tax of P50 per day and advance value-added tax or percentage tax of P150 per day to the BIR. Such advance payments are, however, allowed as credit against actual income tax and business tax due for that period.

Thereafter, the BIR issued RR 24-03, amending RR 16-03, and under the amending regulation, tiangge operators are only obliged to pay using BIR Form No. 0605 an advance percentage tax, amounting to P50 to P150 per day depending upon its setup (air-conditioned or not) and location (city/first class municipality or not). The payment of advance income tax was removed under the new regulation.

Further, RR 24-03 deleted the provision on “credit of advance payment.” It is presumed that the advance payments of percentage tax under RR 24-03 are “final” and not “creditable” tax. Hence, the filing of final percentage tax returns to correct or adjust the amount of actual percentage tax due for the period would no longer be necessary.

RR 24-03 also provides that since tiangge embraces only activity not registered with the BIR, upon registration by the operator with the BIR and compliance with its bookkeeping requirements, the “privilege store” then ceases to be so and shall be governed by pertinent existing laws and regulations.

This cloudy status of tiangge as “unregistered” was clarified by the issuance of RR 11-08 as amended by RR 07-12 regarding primary registrations. Based on these regulations, persons who conduct business in a nomadic or roving manner, such as peddlers, tiangge, mobile-store operators, common carries/school bus operators without designated garages/terminals, etc., their place of residence shall be registered as home office. As a result of the registration, tiangge owned by these operators are effectively eliminated in the ambit of “privilege stores” as specifically provided under RR 24-03.

RR 11-08 also addressed the complaints against tiangge for non-issuance of official receipts or invoices. In addition to the mandatory registration, operators shall also be obliged to observe bookkeeping and invoicing requirements.

However, temporary makeshift stalls/booths/kiosks/AVMs/ATMs, set up by business establishments which are already registered with the BIR, for the mere purpose of participating in trade exhibit to showcase their products for a limited period of less than one month shall not be considered as a branch, but will be required to secure a permit from the Regional District Office having jurisdiction over the place where it shall be conducted.

Just recently, the BIR issued RR 12-11, requiring establishments leasing out spaces for commercial activities the submission of semestral list of tenants. The said list should contain lessees’ name, duration of lease, tax identification number, Authority to Print OR/Invoices Number and POS/CRM Permit Number. This regulation is primarily aimed to compel owners or sub-lessors of commercial establishments to deal only with BIR-registered taxpayers.

It is worthy to note that the BIR is trying to curb the basic non-compliance issues of non-registration and non-issuance of invoice or official receipts. Such moves are in line with the government’s objective of instilling voluntary tax compliance among the populace. If only every one of us recognizes within ourselves that every time we pay taxes we contribute to the fulfillment of this nation’s ultimate dream; that every time we comply with our tax obligations we inspire others to do the same; then the attainment of the government’s objective would only be a few days away just as Christmas Day is!

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