REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

October 29, 2015

REVENUE MEMORANDUM CIRCULAR NO. 70-2015

SUBJECT : **Reiterating the Tax Treatment of Certain Persons Engaged in the Business of Land Transportation**

TO : **All Internal Revenue Officers and Others Concerned**

SECTION 1 – Coverage

This Circular deals with the tax incidence of the business of land transportation, particularly transport network companies (TNCs), such as but not limited to the likes of UBER, GRAB TAXI, their Partners/suppliers and similar arrangements.

SECTION 2 – Business Description

A TNC is a pool of land transportation vehicles whose accessibility to the riding public is facilitated through the use of a common point of contact which maybe in the form of text, telephone and/or cellular calls, email, mobile applications or by other means. The payment of fares by the passenger/s may be made through the same platform or maybe made to the driver of the vehicle directly and maybe paid for in cash, debit card, credit card, mobile payment or any other mode of payment. The vehicles used in transporting passenger and/or goods in the TNC maybe owned by other people and/or entities other than the TNC, and shall be referred to herein as “Partners”. Payments between and among TNCs and their Partners, may take the form of either (1) the TNC paying its Partner(s) a portion of the proceeds it receives from its customers, or (2) the Partner(s) paying the TNC an amount out of each contract of carriage received from its customers, in accordance with the rate agreed upon between the TNC and the Partner.. The vehicles in the pool may either be owner-driven or driven by employees of the owner/partner.

The TNC may or may not have been granted a Certificate of Public Convenience (CPC). If it is a holder of a valid and current CPC, it is known as a common carrier and its gross receipts are subject to the Three Percent (3%) common carriers tax under Section 117 of the National Internal Revenue Code of 1997, as amended (NIRC). Otherwise, it is classified as a land transportation service contractor and is subject to the Twelve Percent (12%) Value Added Tax (VAT) under the NIRC.

The CPC referred to herein is the one issued by the Land Transportation Franchising and Regulatory Board (LTFRB) granting land transportation vehicles for hire a franchise to operate as such and shall be evidenced by the issuance of a certificate with the same title. An Accreditation issued by the LTFRB is not in itself a CPC and will not make said operation that of a common carrier.

The Partners forming part of the network of a TNC, may or may not be a common carrier, depending on whether the Partner(s) itself/themselves are holders of a CPC. A mere Accreditation given by LTFRB is not an equivalent to a CPC and will not make said holder a common carrier. If the Partner is a holder of a CPC, said Partner is a common carrier and is subject to the 3% common carriers tax provided for under Section 117 of the NIRC. However, if the Partner is not a holder of a CPC, said Partner is merely a land transportation service contractor and under the VAT system, the transportation service contractor, at its option if the gross annual sales and/or gross receipts do not exceed P1,919,500.00, may register either as a VAT taxpayer, and be liable to the 12% VAT, or as non-VAT taxpayer, for it is mandated to pay the 3% percentage tax under Section 116 of the Tax Code. The Partners of the TNC belong to this category.

SECTION 3 – Tax Compliance Rules

Pursuant to RMC No. 55-2013, and other existing provisions of the law and implementing regulations, each TNCs and each of their Partners, like other business establishments, have the obligation to:

a. Register the business at the Revenue District Office (RDO) having jurisdiction over the principal place of business/head office (or residence in case of individuals), by accomplishing BIR Form 1901 (for individuals) or 1903 (for corporations or partnerships), and pay the registration fee to any Authorized Agent Bank (AAB) located within the RDO. A BIR Certificate of Registration shall be issued by the RDO, reflecting therein the tax types required of the concerned taxpayer for filing and payment, which shall be displayed conspicuously in the business establishment;

   If the TNC, or any of its Partners, is already registered as engaged in business, either for goods and services, or practice of profession, it needs to file a registration update using BIR Form No. 1905. But if deriving income as an employee, there is a need to register using BIR Form 1901.

b. Secure the required Authority to Print (ATP) official receipts and register books of accounts for use in business, which may either be:

a. Manual books of accounts, booklets of receipts, accounting records or loose-leaf of such;

b. Computerized Accounting System (CAS) and/or its components including e-Invoicing System under Revenue Memorandum Order (RMO) No. 21-2000 as amended by RMO No. 29-02.

The TNC shall register and obtain an ATP under the e-Invoicing System for the Official Receipts (ORs) issued to the passengers. Its Partners shall likewise follow in so far as the ORs they will issue to the TNC for the use or rental of the vehicle, if such is the case.

c. Issue registered official receipts, either manually or electronically, for every sale, barter, or exchange of service, Said official receipt shall conform to the information requirements prescribed under existing revenue issuances, and shall be prepared at least in duplicate, the original to be given to the passenger and the duplicate to be retained by the service provider as part of the latter's accounting records;

Scenario One – Payment is Made to TNC and TNC pays its Partners.

The TNC shall issue an OR to the passenger/customer for the total amount of money received from the passenger/customer. If the TNC is a holder of a valid and current CPC, it shall issue a non-VAT OR to the passenger/customer. The TNC is liable for the 3% common carriers tax under Section 117 of the NIRC on its gross receipts. If the TNC is not a holder of a valid and current CPC, it shall issue a VAT OR to its passenger/customer and as a land transportation service contractors, shall be subject to the 12% VAT

Upon receipt of payment by the Partner from the TNC, the Partner, to acknowledge receipt of the money payment from the TNC, shall issue an OR to the TNC for the amount received from the TNC. If the Partner is a holder of a valid and current CPC, it is a common carrier and it shall issue a non-VAT OR and shall be liable for the 3% common carrier tax under Section 117 of the NIRC on the gross amount received from the TNC. If the Partner is not a holder of a valid and current CPC, it is a land transportation service contractor, and should issue either a VAT OR, when it is a VAT-registered taxpayer or a non-VAT OR if it has not exceeded the threshold of P1,919,500.00 and has not opted for VAT registration.

Scenario Two – Payment is Made to Partner and Partner pays TNC.

The Partner shall issue an OR to the passenger/customer for the total amount of money received from the passenger/customer. If the Partner is a holder of a valid and current CPC, it shall issue a non-VAT OR to the passenger/customer. The Partner is liable for the 3% common carriers tax under Section 117 of the NIRC on its gross receipts. If the Partner is not a holder of a valid and current CPC, it is a land transportation service contractor, and should issue either a VAT OR, when it is a VAT-registered taxpayer or a non-VAT OR if it has not exceeded the threshold of P1,919,500.00 and has not opted for VAT registration.

Upon receipt of payment by the TNC from the Partner, the TNC, to acknowledge receipt of the money payment from the Partner, shall issue an OR to the Partner for the amount received from the Partner. If the TNC is a holder of a valid and current CPC, it is a common carrier and it shall issue a non-VAT OR and shall be liable for the 3% common carrier tax under Section 117 of the NIRC on the gross amount received from the Partner. If the TNC is not a holder of a valid and current CPC, it is a service contractor, and should issue either a VAT OR, when it is a VAT-registered taxpayer, or a non-VAT OR if it has not exceeded the threshold of P1,919,500.00 and has not opted for VAT registration.

d. Withhold required creditable/expanded withholding tax, final tax, tax on compensation of employees, and other withholding taxes. Remit the same to the Bureau at the time or times required, and issue to the concerned payees the necessary Certificate of Tax Withheld. Payments made by TNCs to Partners, or payments made by Partners to TNCs, as the case maybe, are subject to creditable/expanded withholding tax;

e. File applicable tax returns on or before the due dates, pay correct internal revenue taxes, and submit information returns and other tax compliance reports such as the Summary List of Sales/Purchases (SLS/P) where applicable, Annual Alpha List of Payees, etc., at the time or times required by existing rules and regulations; and

f. Keep books of accounts and other business/accounting records within the time prescribed by law, and such shall be made available anytime for inspection and verification by duly authorized Revenue Officer/s for the purpose of ascertaining compliance with tax rules and regulations.

The existing tax laws and revenue issuances on the tax treatment of purchases (local or imported) and sale (local or international) of goods (tangible or intangible) or services shall be equally applied with no distinction on whether or not the marketing channel is the internet/digital media or the typical and customary physical medium.

SECTION 4. Other Reminders.

a. The TNCs and Partners are reminded that payments made are not allowed as a deductible expense unless properly substantiated, evidenced by a valid OR, and for which withholding taxes have been properly withheld and remitted to the BIR.

b. Credit card companies are reminded that payments made to TNCs and/or Partners should follow existing laws, rules and regulations including but not limited to the requirement of withholding taxes due thereon.

c. All payments received from a passenger/customer must be issued an OR without need of demand for the issuance of the same.

d. Non-registration of a business, non-issuance of ORs and non-withholding of taxes among others are subject to both civil and criminal liabilities under the NIRC.

This Circular shall be given as wide a publicity as possible.

(Original Signed)
KIM S. JACINTO-HENARES
Commissioner of Internal Revenue