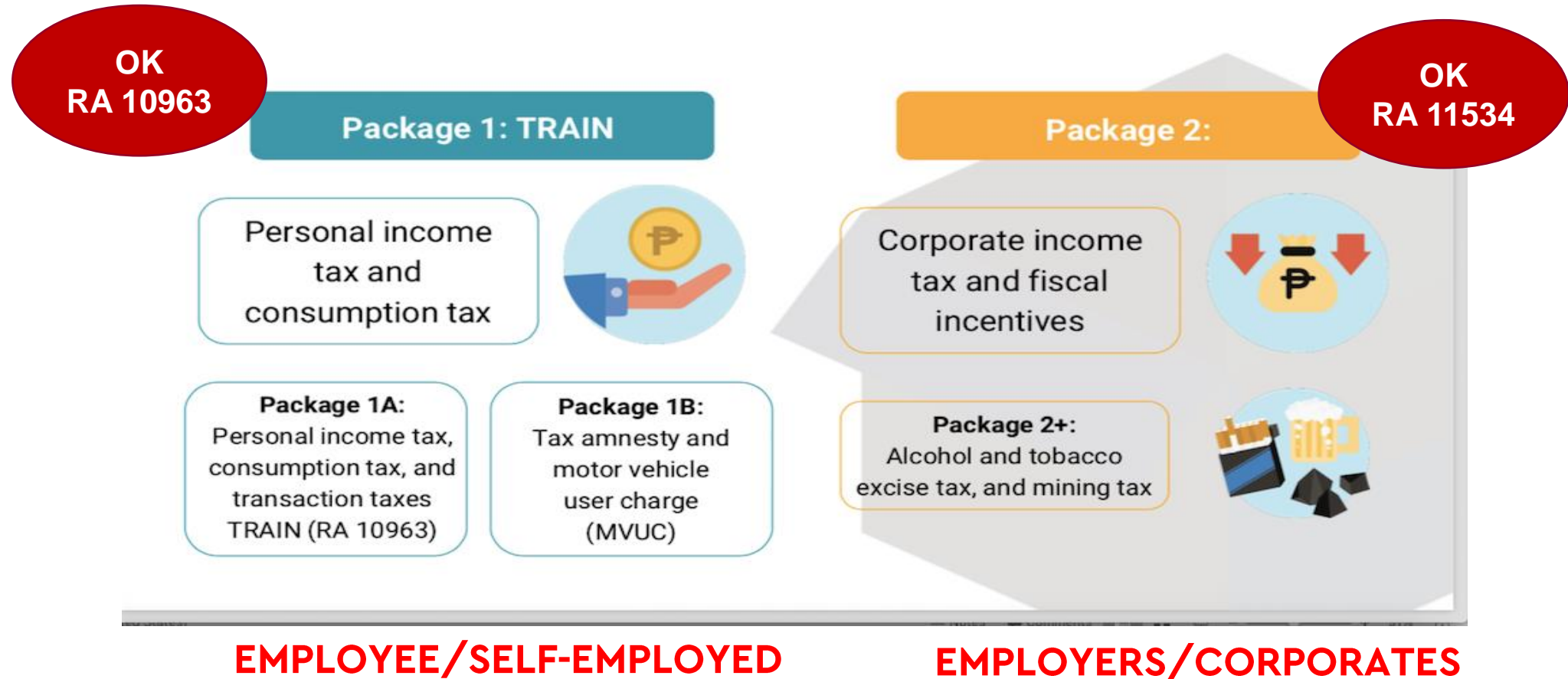


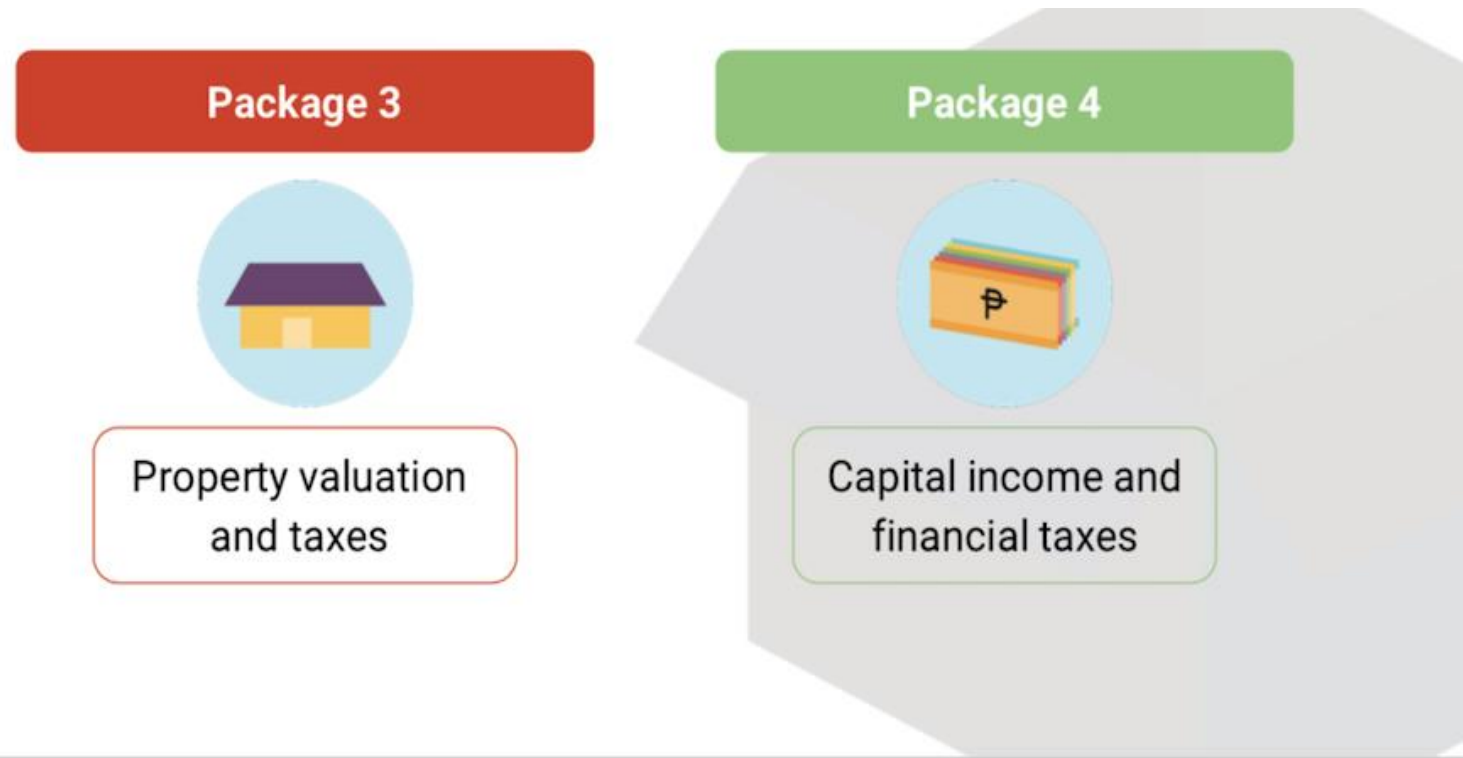
Pending Legislations and The Reformed VAT System

Atty. Fulvio D. Dawilan

THE COMPREHENSIVE TAX REFORM



THE COMPREHENSIVE TAX REFORM



Pending Tax Legislations

Real Property Valuation and Assessment Reform Act

Objective:

- ✓ Development of a just equitable, and efficient real property valuation system.
 - ✓ Broaden tax base used for property and property-related taxes of the national and local government.
-

Salient Points

- ✓ Establishes a single valuation base for taxation.
- ✓ Centralizes the approval of the SMVs from the local Sanggunian back to the Secretary of finance.
- ✓ Establishes a comprehensive and up-to-date electronic database to support valuation function.

Passive Income and Financial Intermediary Taxation Act

Objective:



Establish a simpler, fairer, more efficient, and regionally more competitive tax system.



Encourage savings and develop and deepen the capital markets.



Promote capital market development and tax competitiveness.

Passive Income and Financial Intermediary Taxation Act

Salient Points:



Reduces the number of final withholding tax rates.



Harmonizes business taxes on financial intermediation services

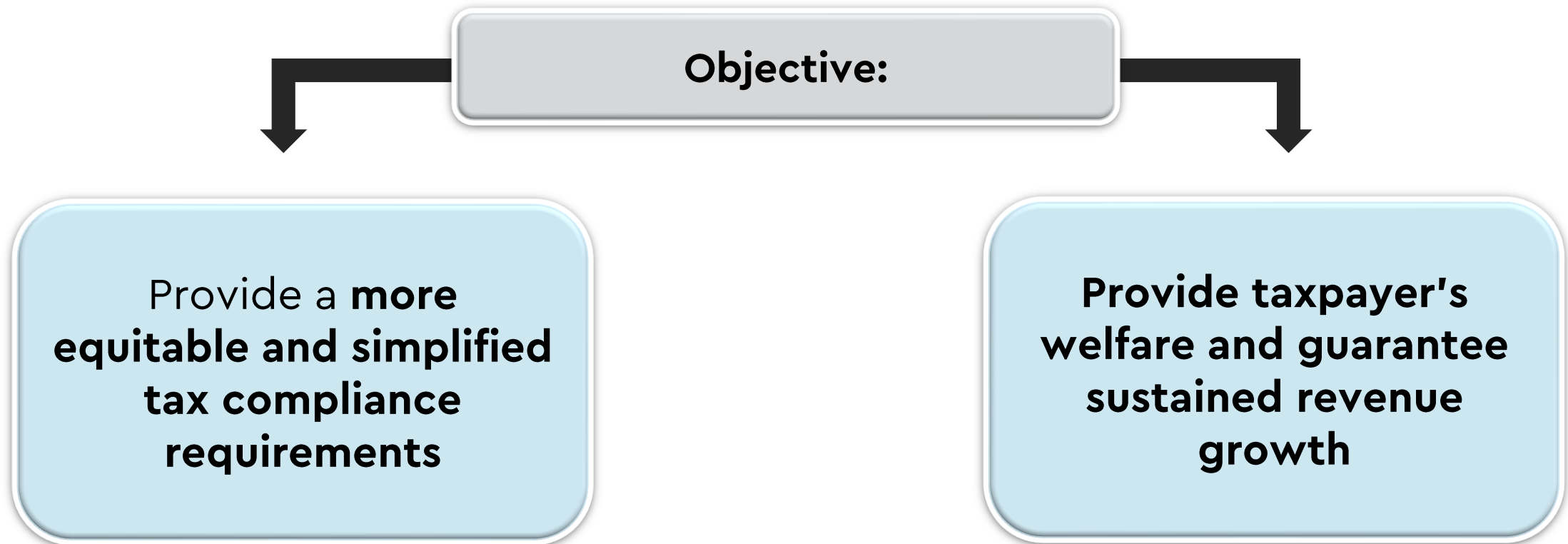


Remove Initial Public Offering Tax.



Rationalizes the documentary stamp taxes and removes the imposition of DST on nonmonetary transactions.

Ease of Paying Taxes Act



Ease of Paying Taxes Act

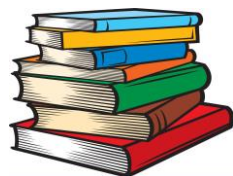
Salient Points:

- ✓ Incorporate the option to file returns and pay taxes due thereon vial electronic means.
- ✓ Allow the filing and payment of taxes through any AAB or RDO, even outside the RDO of the taxpayer.
- ✓ Makes uniform the tax base and supporting documents for VAT transactions.
- ✓ Lessen the information required in the sales receipt.
- ✓ Ensure the availability of registration facilities to non-resident taxpayers.
- ✓ Removes annual registration fee of ₱500.00.



Taxpayer's Bill of Rights and Obligations Act

Objective:



To provide a consolidated and simplified codification of taxpayer's rights.



To prevent, if not completely eradicate abuses committed against taxpayers.

Taxpayer's Bill of Rights and Obligations Act

Salient Points:



Outlines Taxpayer's rights and obligations.



Create the Office of the National Taxpayer's Advocate ("ONTA").



Imposes penalties for violation of taxpayer's rights.

Imposition of VAT on Digital Transaction in the Philippines

- Objective**
:
- ✓ Strengthen its revenue-generating capability.
 - ✓ Strengthen and streamline the BIR's authority to collect VAT on digital transactions.
-

- Salient Points**
- ✓ Established a simplified VAT automated registration system.
 - ✓ Imposes 12% VAT on all digital transactions.
 - ✓ Covers any person, whether resident or non-resident.

Plastic Bags Tax Act

Objective:

- ✓ Discourage usage of single-use plastic bags



Salient Points

- ✓ Imposes an excise tax for every kilogram of plastic bags
- ✓ Allocate incremental revenues generated from the imposition of the excise tax on single use plastic bags to programs of the DENR or Ecological Waste Management Program Act.

Reformed VAT System



VAT ZERO-RATED TRANSACTIONS

VAT Zero-Rated Sales of Goods



	Prior to TRAIN	TRAIN	CREATE
Sec 106(A)(2), NIRC			
(a) Export sales:			
(1) Sale and actual shipment of goods from the Phils. to foreign country	0-rated	Same	
(4) Sale of gold to Bangko Sentral ng Pilipinas	0-rated	Repealed (became subject to 12% VAT)	now subject to 12% VAT)

	Prior to TRAIN	TRAIN	CREATE
Sec 106(A)(2), NIRC			
(a) Export sales:			
(2) Sale of raw materials or packaging materials to a non-resident buyer for delivery to local export-oriented enterprise to be used in manufacturing, processing, packing or repacking in the Phils. of the buyer's goods	0-rated	now subject to 12% VAT	now subject to 12% VAT
(3) Sale of raw materials or packaging materials to export-oriented enterprise whose export sales exceed 70% of total annual production	0-rated		
(5) Those considered export sales under EO 226, otherwise known as the Omnibus Investment Code of 1987, and other special laws	0-rated		

	Prior to TRAIN	TRAIN	CREATE
Sec 106(A)(2), NIRC			
(a) Export sales:			
(6) Sale of goods, supplies, equipment and fuel to persons engaged in international shipping or int'l air transport operations	0-rated	Same	
(b) Foreign currency denominated sale	0-rated	Repealed (became subject to 12% VAT)	Now subject to 12% VAT
(c) Sale to persons or entities whose exemption under special laws or int'l agreements to which the Phils. is a signatory effectively subjects such sales to zero-rate	0-rated	Same	

VAT Zero-Rated Sales of Service



	Prior to TRAIN	TRAIN	CREATE
Sec 108(B), NIRC			
1. Processing, manufacturing or repacking goods for other persons doing business outside the Phils. which goods are subsequently exported	0-rated	now subject to 12% VAT	now subject to 12% VAT
2. Services other than processing, manufacturing or repacking rendered to a person engaged in business conducted outside the Philippines or to a non-resident person not engaged in business who is outside the Philippines when the services are performed	0-rated	Same	

	Prior to TRAIN	TRAIN	CREATE
Sec 108(B), NIRC			
3. Services rendered to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects the supply of such services to 0% rate	0-rated	Same	
4. Services rendered to persons engaged in international shipping or air transport operations, including leases of property for use thereof	0-rated	Same	

	Prior to TRAIN	TRAIN	CREATE
Sec 108(B), NIRC			
5. Services rendered to persons by subcontractors and/or contractors in processing, converting or manufacturing goods for an enterprise whose export sales exceed 70% of total annual production	0-rated	now subject to 12% VAT	now subject to 12% VAT
6. Transport of passengers and cargo by (domestic) air or sea vessels from the Philippines to a foreign country	0-rated	Same	

	Prior to TRAIN	TRAIN	CREATE
Sec 108(B), NIRC			
7. Sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal and steam, ocean energy, and other emerging sources using technologies such as fuel cells and hydrogen fuels	0-rated	Same	

VAT ZERO-RATING OF LOCAL PURCHASES BY REGISTERED BUSINESS ENTERPRISES



VAT Incentives of Registered Business Enterprises

References:

- ✓ Section 294(E) of the NIRC, as amended by CREATE
- ✓ Section 295(D) of the NIRC, as amended by CREATE
- ✓ Sec 5, Rule 2 of the Implementing Rules and Regulations of Title XIII (Title on Tax Incentives, as amended by CREATE)

VAT Incentives of Registered Business Enterprises

Under CREATE:

- ✓ VAT exemption on importation and VAT zero-rating on local purchases [Sec. 294(E) of the Tax Code, as amended by CREATE]

Incentive

Under the IRR of CREATE:

- ✓ VAT exemption on importation and VAT zero-rating on local purchases (Sec. 5, Rule 2, IRR of CREATE)

VAT Incentives of Registered Business Enterprises

Conditions for Availment of VAT Incentives for Registered Business Enterprises

Under CREATE:

The VAT exemption on importation and VAT zero-rating on local purchases shall only apply to goods and services **directly and exclusively used** in the registered project or activity by a **registered business enterprise** [295(D) of the Tax Code, as Amended by CREATE]

Under the IRR of CREATE:

The VAT exemption on importation and VAT zero-rating on local purchases:

1. Only apply to goods and services **directly and exclusively used** in the registered project or activity of a **registered export enterprise**,
2. **for a maximum period of 17 years from the date of registration**
3. VAT zero-rating on **local purchases** shall be granted **upon the endorsement of the concerned IPA, in addition to the requirements of the BIR.** (Sec. 5, Rule 2, IRR of CREATE; see also Revenue Memorandum Circular 84-2022 for the sworn affidavit to be executed by registered business enterprises)

VAT Incentives of Registered Business Enterprises

Meaning of Direct and Exclusive Use

Under CREATE:

Not defined

Conditions
of
Availment

Under the IRR of CREATE:

The direct and exclusive use for the registered project or activity refers to:

- ✓ Raw materials
- ✓ Inventories
- ✓ Supplies
- ✓ Equipment
- ✓ Goods
- ✓ Packaging materials
- ✓ Services, including provision of basic infrastructure, utilities, maintenance, repair and overhaul of equipment, and other expenditures

directly attributable to the registered project or activity without which the registered project or activity cannot be carried out (Sec. 5, Rule 2, IRR of CREATE)

VAT Treatment of Sales to Registered Business Enterprises

Definition of Registered Business Enterprise

Legal Reference

Section 293(M)
of the NIRC, as
amended by
CREATE;
Section 4(W) of
the CREATE IRR

Definition

Registered business enterprise refers to any individual, partnership, corporation, Philippine branch of a foreign corporation, or other entity organized and existing under Philippine laws and registered with an Investment Promotion Agency excluding service enterprises such as those engaged in customs brokerage, trucking or forwarding services, janitorial services, security services, insurance, banking, and other financial services, consumers' cooperatives, credit unions, consultancy services, retail enterprises, restaurants, or such other similar services, as may be determined by the fiscal incentives review board

VAT Treatment of Sales to Registered Business Enterprises

Definition of Registered Export Enterprise

Legal Reference

Section 293(E) of the NIRC, as amended
 CREATE;
 Section 4(m), Rule 1 of CREATE IRR;
 Secs. 4.106-5(c) and 4.108-5(3) of RR 16-05, as amended by

Definition

Registered Export Enterprise is:

a. An Export enterprise - refers to any individual, partnership, corporation, Philippine branch of a foreign corporation, or other entity organized and existing under Philippine laws and **registered with an Investment Promotion Agency** to engage in manufacturing, assembling or processing activity, and services such as information technology (IT) activities and business process outsourcing (BPO), and resulting in the direct exportation, and/or sale of its manufactured, assembled or processed product or IT/BPO services to another registered export enterprise that will form part of the final export product or export service or the latter, of at least seventy percent (70%) of its local production or output.

b. A registered business enterprise

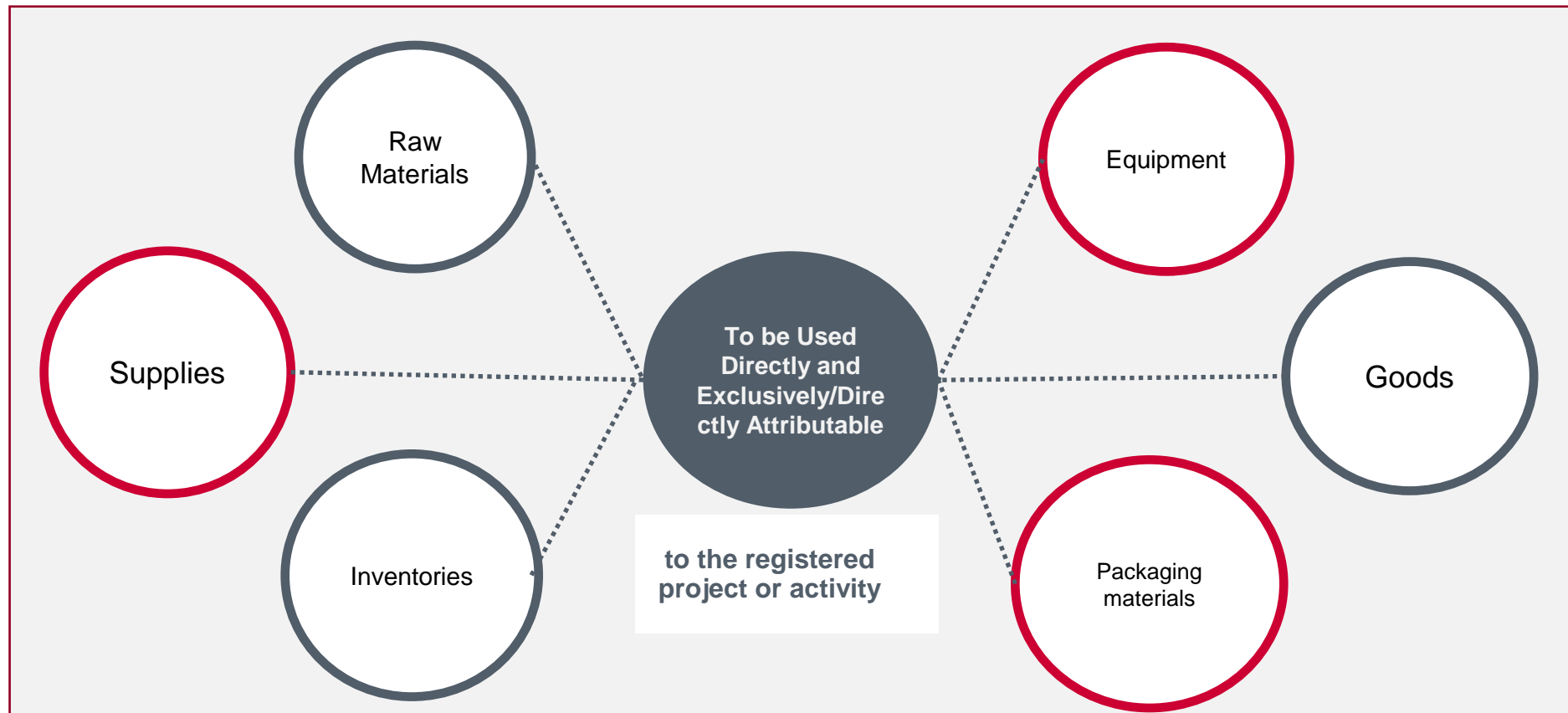
VAT Treatment of Sales to Registered Business Enterprises

References:

- ✓ Section 294(E) of the NIRC, as amended by CREATE
- ✓ Section 295(D) of the NIRC, as amended by CREATE
- ✓ Sec 5, Rule 2 of the Implementing Rules and Regulations of Title XIII (Title on Tax Incentives, as amended by CREATE)
- ✓ Secs. 4.106-5(c) and 4.108-5(b)(3) of Revenue Regulations No. 16-06 (VAT Regulations), as amended by Revenue Regulations No. 21-2021 (December 03, 2021)
- ✓ Revenue Memorandum Circular No. 24-2022 (February 23, 2022) and Revenue Memorandum Circular No. 49-2022 (April 19, 2022)

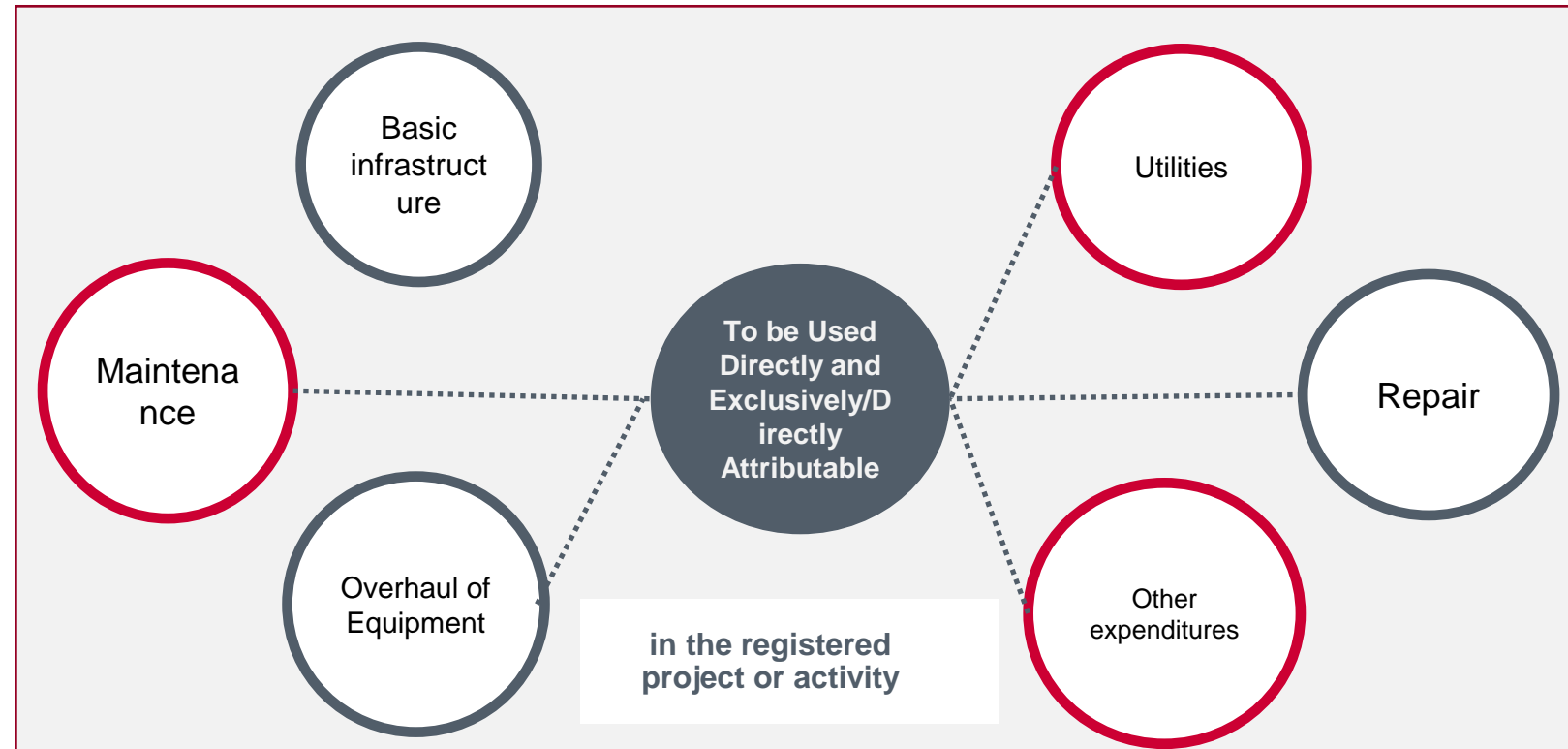
VAT Treatment of Sales to Registered Business Enterprises

Sales of Goods to Registered Export Enterprises



VAT Treatment of Sales to Registered Business Enterprises

Sales of Services to Registered Service Enterprises, including



VAT Treatment of Sales to Registered Business Enterprises

Sales to Registered Export Enterprise (REE) is zero-rated, subject to the following:

- ✓ The buyer is an export enterprise registered with an investment promotion agency
- ✓ Goods and services sold must be used directly and exclusively (directly attributable) to the registered project or activity of the REE
- ✓ For a maximum period of 17 years, unless extended under the SIPP
- ✓ Compliance with administrative requirements

VAT Treatment of Sales to Registered Business Enterprises

Other Clarifications (Revenue Memorandum Circular Nos. 24-2022 and 49-2022)

Issues/Concerns

.....
Cross-border doctrine
.....

VAT treatment of sales to registered export enterprises, **regardless of location**

Clarifications

.....
✓ Rendered ineffectual and inoperative for VAT purposes
.....

.....
✓ VAT zero-rated provided all the conditions for zero-rating are present
.....

VAT Treatment of Sales to Registered Business Enterprises

Other Clarifications (Revenue Memorandum Circular Nos. 24-2022 and 49-2022)

Issues/Concerns

Purchases used for both registered and unregistered activities

VAT registration for REEs

Clarifications

✓ Only the portion directly and exclusively used in the registered project shall be entitled to VAT zero-rating. The REE should adopt a method to best allocate the goods and services purchased.

✓ Still under ITH – should be VAT registered

✓ Expired ITH and enjoying 5% SCIT, change to Non-VAT

✓ Those with multiple incentives (ITH and 5% SCIT) shall remain as VAT-registered until the expiration of the ITH for the registered activities and the 5% SCIT

VAT Treatment of Sales to Registered Business Enterprises

Other Clarifications (Revenue Memorandum Circular Nos. 24-2022 and 49-2022)

Issues/Concerns

Requirement to apply for VAT zero-rating

Clarifications

Prior approval from the BIR has to be secured by local suppliers.

Documents to be submitted to BIR:

1. Certificate of Registration and VAT certification issued by the IPA (see RMC 36-2022 for the template of the VAT 0% Certification)
2. Sworn affidavit executed by the registered export enterprise (see RMC 84-2022 for the template)
3. Other documents

Notes:

- Absence of prior approval may result in the disallowance of VAT zero-rated sale
- For purposes of applying for refund of input taxes by the local supplier, the approved application for VAT zero-rating shall form part of the documentary requirements.



Treatment of Input Taxes on Purchases of Capital Goods

References:

- ✓ Section 110(A) of the NIRC, as amended by the TRAIN Law
- ✓ Revenue Memorandum Circular No. 21-2022 (December 09, 2021)

Treatment of Input Taxes on Purchases of Capital Goods

Rule Prior to TRAIN Law	Amendment Introduced by TRAIN
<p>Input tax on capital goods is spread over a period of 60 months (or shorter period if estimated useful life of assets is less than 5 years) starting on the month of purchase and the next 59 months (or such shorter period)</p>	<p>The amortization of input tax on capital goods shall only be allowed until December 31, 2021, after which taxpayers with unutilized input tax on capital goods purchased or imported shall be allowed to apply the same as scheduled until fully utilized.</p>

Treatment of Input Taxes on Purchases of Capital Goods

Revenue Memorandum Circular No. 21-2022, December 09, 2021

- ✓ Effective January 01, 2022, all input taxes on purchases of capital goods shall already be allowed upon purchase/payment, and shall no longer be deferred
- ✓ Taxpayers with unutilized input tax on capital goods purchased or imported prior to January 01, 2022 shall be allowed to amortize the same as scheduled until fully utilized
- If the capital good is sold/transferred prior to the exhaustion of the related amortizable input tax, the entire unamortized portion can be claimed as input tax credit during the month/quarter when the sale or transfer was made.

Treatment of VAT Withheld by Government

References:

- ✓ Section 114(C) of the NIRC, as amended by the TRAIN Law
- ✓ Revenue Memorandum Circular No. 36-2021 (March 05, 2021)

Shift from Final Tax to Creditable Tax, beginning January 01, 2021

	Old Rule	New Rule (RMC 36-2021, effective Jan 1, 2021)
Treatment of 5% VAT withheld by government	Final tax, with 7% standard input tax	Creditable tax, 7% standard input tax no longer applies
Supporting document	BIR Form 2306 (Certificate of Final Tax Withheld at Source)	BIR Form 2307 (Certificate of Creditable Tax Withheld at Source)

Frequency of VAT Payment

Beginning January 01, 2023, the filing of the VAT return and payment of the VAT shall be done within 25 days following the close of the quarter.

References:

- ✓ Section 114(B) of the NIRC, as amended by the TRAIN Law
- ✓ Section 114-1(A) of Revenue Regulations No, 16-05

Thank you for your attention.