

What's Inside...

INSIGHTS is a monthly publication of BDB LAW to inform, update and provide perspectives to our clients and readers on significant tax-related court decisions and regulatory issuances (includes BIR, SEC, BSP and various government agencies).

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HIGHLIGHTS for April 2025

HIGHLIGHTS

COURT DECISIONS

- **The operative characteristic which entitles sales to ECOZONE-registered entities with VAT zero percent is that the merchandise or goods sold thereto is "to be used in connection with the registered activity."** (*Ford Group Philippines, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10805, April 4, 2025*)
- **"Assessments" issued to taxpayers which are required to be paid prior to the renewal of their business permits cannot be considered the "notice of assessments" contemplated under Section 195 of the LGC, sans any amount of deficiency LBT, surcharge, interest and penalties.** (*City Treasurer of Paranaque City v. Royal Cargo, Inc., CTA EB No. 2908 (CTA AC No. 270), April 15, 2025*)

BIR ISSUANCES

- **RR No. 14-2025, April 25, 2025** – This Amends Section 14 of the Revenue Regulations No. 3-2025 on the prescribed policies and guidelines for the implementation of VAT on Digital Services.
- **RR No. 15-2025, April 29, 2025** – This provides the Revised Private Retirement Benefit Plan Regulations.
- **RMC No. 38-2025, April 23, 2025** – This provides clarification on the requirement of submission of taxpayer identification number of cooperative members for the issuance of certificate of tax exemption in relation to Revenue Memorandum Circular No. 158-2022.

BSP ISSUANCES

- **Circular Letter No. CL-2025-017, April 15, 2025** – This prescribes the publication/posting of statement of condition and/or consolidated statement of condition and balance sheet by all non-bank financial institutions with quasi-banking functions and/or trust entity and trust corporations.

IC ISSUANCES

- **IC Circular Letter No. 2025-09 dated April 8, 2025**– This provides the new Omnibus Guidelines on Investments.

SEC ISSUANCES

- **SEC Memorandum Circular No. 3, Series of 2025, dated April 4, 2025** – This prescribes the mandatory use of the SEC Zuper Easy Registration Online (ZERO) in the registration of corporations using the Electronic Simplified Processing of Application for Registration of Company (eSPARC) and One Day Submission and E-Registration of Companies (OneSEC) as portals.

FIRB ISSUANCES

- **FIRB Advisory No. 003-2025** – The FIRB highly encourages all IPAs to use the prescribed COR template for each transitory project of RBEs qualified to avail of said non-fiscal incentives.

COURT OF TAX APPEALS

DECISION HIGHLIGHTS

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The operative characteristic which entitles sales to ECOZONE-registered entities with VAT zero percent is that the merchandise or goods sold thereto is "to be used in connection with the registered activity".

The BIR finds that the taxpayer's sales to ecozone-registered enterprises do not qualify for VAT zero-rating pursuant to RMC No. 25-99, which states that "sales of ordinary automobiles to PEZA, SBMA and other ECOZONE registered enterprises are not entitled to VAT zero-rating."

The taxpayer refutes said finding and points out that the BIR's application of RMC No. 25-99 in its case is misplaced and unfounded, since while the items sold to Ford Subic and Ford Clark are automobiles, they are nevertheless pursuant to the registered ECOZONE activities of said entities, and hence must be entitled to VAT zero-rating in accordance with the NIRC and its regulations.

Here, the CTA ruled in favor of the taxpayer.

The BIR, in applying RMC No. 25-99 to assess taxpayers' sales, merely relied on the fact that what was sold by the taxpayer to Ford Subic and Ford Clark are automobiles and spare parts, without taking into consideration the two entities' registered activities within their respective ECOZONES.

It must be emphasized that the operative characteristic which entitles sales to ECOZONE-registered entities with VAT zero percent is that the merchandise or goods sold thereto is "to be used in connection with the registered activity".

Since Ford Subic and Ford Clark are both engaged in automotive dealership, its purchases of automobiles and spare parts from the taxpayer indeed qualifies for VAT zero-rating as these are to be used in connection with their respective registered activities. (*Ford Group Philippines, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10805, April 4, 2025*)

COURT OF TAX APPEALS

DECISION HIGHLIGHTS

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"Assessments" issued to taxpayers which are required to be paid prior to the renewal of their business permits cannot be considered the "notice of assessments" contemplated under Section 195 of the LGC, sans any amount of deficiency LBT, surcharge, interest and penalties.

This is an appeal filed by the taxpayer seeking the refund of its excess LBT paid to the City Treasurer of Paranaque.

In January 2020, upon the taxpayer's application for renewal of its business permit for CY 2020, the City Treasurer issued a SOA indicating the LBT, among others, to be paid by the former. The taxpayer paid the assessed LBT so as not to delay the renewal of its business permit. Subsequently, on November 24, 2021, the taxpayer filed a written claim for a refund. Then on February 2, 2022, the taxpayer filed its judicial claim for refund by way of a Complaint with the RTC of Paranaque City.

The Court ruled that the SOA issued against the taxpayer is not an assessment contemplated under Section 195 of the LGC. In the instant case, the SOA was not issued pursuant to an audit or examination of respondent's books of accounts as provided under Section 171 of the LGC. The SOA merely tabulated the amount and nature of the tax and fees assessed but did not contain the amount of deficiency tax, surcharges, interests, and penalties due from the taxpayer. The SOA also did not indicate the period covered for purposes of prescription and was signed by the Chief of the BPLO and not the local treasurer. Indeed, after a meticulous examination of the SOA, the Court En Banc finds that SOA does not state the pertinent facts and laws on which the billed amounts were based. (*City Treasurer of Paranaque City v. Royal Cargo, Inc.*, CTA EB No. 2908 (CTA AC No. 270), April 15, 2025)

RR No. 14-2025, April 25, 2025. This Amends Section 14 of the Revenue Regulations No. 3-2025 on the prescribed policies and guidelines for the implementation of VAT on Digital Services

EXTENSION OF PERIOD OF REGISTRATION FOR NON-RESIDENT DIGITAL SERVICE PROVIDERS

Registration of non-resident digital service providers shall abide by the following:

Period of Registration	Within 120 days from effectivity of the RR No. 3-2025 (Until June 1, 2025) Note: Deadlines may be further extended as may be necessary
Modes of Registration	Through the: <input checked="" type="checkbox"/> VDS Portal; or <input checked="" type="checkbox"/> Online Registration and Update System (ORUS)
VAT Imposition	Non-resident digital service providers shall be subject to VAT starting June 2, 2025

RR No. 15-2025, April 29, 2025. This provides the Revised Private Retirement Benefit Plan Regulations

Revised Private Retirement Plan Regulation

I. Tax Incentives or Privileges

1. Exemption from income tax and, consequently, from withholding tax, of the retirement benefits and all amounts received by officials and employees of private firms on account of their retirement.
2. Exemption from income tax and, consequently, from withholding tax, of the trust income from various investments made by the trustees of an employee's trust.
3. Tax deductibility of the following contributions made by employers from its gross income:
 - i. contributions to the trust during the taxable year to cover the pension liability accrued during that year ("**Normal Cost**"); and
 - ii. contributions to the trust during the taxable year in excess of the Normal Cost but only if such amount (1) has not theretofore been allowed as a deduction, and (2) is apportioned in equal parts over a period of ten (10) consecutive years beginning with the year in which the transfer or payment is made.

II. Requisites of a Reasonable Retirement Benefit Plan

1. Written Program
2. Permanency

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3. Coverage
4. Contribution
5. Impossibility of Diversion
6. Non-discriminatory
7. Non-forfeitures
8. Forfeitures

III. Application for a Certificate of Qualification for Tax Exemption

- The employer shall in the **BIR National - Legal and Legislative Division**
- Within thirty (30) days from** date of effectivity of retirement benefit plan.

IV. Filing of Returns

All trusted Retirement Plan are required to file an annual information return on or before **April 15** of each year with the RDO having jurisdiction over the employer.

RMC No. 031-2025, April 7, 2025. This is a clarification on the provisions on the applicable taxes due on sale of real property considered as ordinary assets of the seller and other relevant matters

All taxpayers habitually engaged in the real estate business shall comply with the following:

- Filing of BIR Form No. 1606 (Withholding Tax Remittance Return – For Onerous Transfer of Real Property other than Capital Asset) and BIR Form No. 2000 – OT (Documentary Stamp Tax Declaration /Return for One-Time Transactions)
- Proof of payment shall be attached to BIR Form No. 1606 as proof of claiming the income tax credit.

Note: The total of tax credits claimed per submitted Summary Alphalist of Withholding Taxes by taxpayers shall be the total of BIR Form No. 2307 under Creditable Tax Withheld for the year for its business other than real estate and the CWT remitted through BIR Form No. 1606.

- The seller habitually engaged in the real estate business on their sale of real property financed by financing institutions shall issue a sales invoice to the buyer as evidence of sale and payment, and an acknowledgment receipt or official receipt to the financing institution as evidence of each receipt.

Transfer fees, processing fees, miscellaneous fees, registration fees, and the like, billed by the taxpayer habitually engaged in the real estate business shall be subject to income tax and VAT.

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RMC No. 034-2025, April 8, 2025. This prescribes guidelines in the filing of annual income tax return and payment of taxes due thereon for calendar year 2024

GUIDELINES IN THE FILING OF THE 2024 ANNUAL INCOME TAX RETURN

I. Deadline for Filing and Payment

Filing of the 2024 Annual Income Tax Return (AITR) and the payment of the corresponding taxes is due on or before April 15, 2025

II. Modes of Filing

General Rule: Filing shall be done electronically, including AITRs without payment

Exception: Manual filing shall only be allowed to the following:

- Micro and Small individual business taxpayers (using BIR Form No. 1701-MS);
- When there is a BIR-issued Advisory on the unavailability of the electronic systems; or
- Justifiable reasons determined by the Commissioner of Internal Revenue or his authorized representative.

III. Guidelines for Electronic Filing of Tax Returns

A. Electronic Filing and Payment System (eFPS)

Covered Taxpayers	Taxpayers mandated to use the eFPS AITR shall be filed electronically, and payment of taxes shall be through the eFPS Authorized Agent Banks (AAB)	
Available AITRs	BIR Form	Description
	1700	For individuals earning purely compensation income (including non-business/non-professional)
	1701A	For individuals earning purely from business/profession
	1701	For individual mixed-income earners, estates and trusts
	1702RT	For non-individuals subject only to the regular income tax rate
	1702EX	For non-individuals exempt under the Tax Code and other special laws with no other taxable income
	1702MX	For non-individuals with income subject to multiple tax rates or special/preferential rates

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Alternatives	<p>eBIRForms facility shall be used in case filing through the eFPS cannot be made due to:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Enrollment in eFPS and eFPS-AAB still in process; <input checked="" type="checkbox"/> Unavailability of eFPS covered by an Advisory published by the BIR; or <input checked="" type="checkbox"/> Unavailability of eFPS-AAB covered by an Advisory published by the AAB
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B. eBIRForms

Covered Taxpayers	<p>Non-eFPS taxpayers</p> <p>AITR shall be filed electronically through Offline eBIRForms Package v7.9.4.2</p>	
Available AITRs	BIR Form	Latest Version
	1700	BIR Form No. 1700v2018
	1701A	BIR Form No. 1701v2018
	1701	BIR Form No. 1701A
	1702RT	BIR Form No. 1702RTv2018C
	1702EX	BIR Form No. 1702EXv2018C
	1702MX	BIR Form No. 1702MXv2018C

C. Tax Software Providers (TSP)

The list of TSPs are as follows:

TSP	Software Solution
AKTUS GLOBAL MANAGEMENT, INC.	ETAX PH
ANANTA SOLUTION CORP.	ANANTAKS
ASIAN CONSULTING GROUP, INC.	TAXWHIZPH
CARL PATRICK E. CUBILLAS	TAXISTA
ETAXPOINT SOFTWARE SOLUTION CORP	ETAXPOINT BOOKKEEPING EDITION
MPM CONSULTING SERVICES, INC.	MPM ACCOUNTING SOFTWARE
MYTAXWHIZPH DIGITAL SOLUTION, INC.	MYTAXWHIZPH DIGITAL SOLUTION, INC.
PILIPINAS MICRO-MATRIX TECH. (PMT JOINT VENTURE), INC.	EPAYTAX
	PMTI PAYTAX
TAXUMO, INC.	TAXUMO INC
TEN ELLEVEN MANILA, INC.	JUANTAX
WYVERN CORP.	WYVERN-ONETT
YAHSHUA SYSTECH CORP.	YAHSHUA TAX ONLINE

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Note: Each TSP has certified BIR Forms; See Annex B of RMC No. 34-2025

D. eLounge Facility

Eligible taxpayers	eLounge facility of the RDO may be used by: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Senior citizens and persons with disabilities <input checked="" type="checkbox"/> Employees deriving purely compensation income from 2 or more employers or from a single employer but whose spouse is not entitled to substituted filing; <input checked="" type="checkbox"/> Employees qualified for substituted filing but opted to file an ITR; and <input checked="" type="checkbox"/> Taxpayers without internet facility
Priority	Priority should be given to taxpayers filing their own returns (vs. tax practitioners filing several returns for their clients)

Note: No need to have the AITR stamped “Received.”

IV. Guidelines for Payment of Taxes

A. Manual Payment

Manual payment may be made through:

- Any AAB
- A Revenue Collection Officer (RCO), provided:
 - There is no AAB;
 - Payments may be through cash (up to P20,000.00) or check (regardless of amount); and
 - RCOs in municipalities shall not accept payment but direct payment to the RDO.

B. Online Payment

ePayment Gateway	Covered Taxpayers
Landbank of the Philippines (LBP) Link.BizPortal	For taxpayers who: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Have ATM account with LBP; <input checked="" type="checkbox"/> Are holders of BancNet ATM/Debit/Prepaid cards; or <input checked="" type="checkbox"/> Utilize PESONet facility for depositors of Rizal Commercial Banking Corporation, Robinsons Bank, Union Bank, Bank of the Philippine Islands, Philippine Savings Bank, and Asia United Bank
Development Bank of the Philippines (DBP) PayTax Online	For taxpayers who have: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> VISA/MasterCard Credit Cards; or <input checked="" type="checkbox"/> BancNet ATM/Debit Cards

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ePayment Gateway	Covered Taxpayers
Union Bank of the Philippines (UBP) Online/The Portal Payment Facilities	For taxpayers who have: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> An account with UBP; or <input checked="" type="checkbox"/> Instapay using UPAY facility (for individual non-account holders of UBP)
Tax Software Providers (TSP)	For taxpayers with TSPs utilizing: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Maya (mobile application) or <input checked="" type="checkbox"/> MyEG (using credit cards or e-wallets)

Note: Taxpayers using ePayment Gateways must file their AITR online through the Offline eBIRForms Package v.7.9.4.2.

V. Guidelines for Filing of BIR Form No. 1701-MS

Covered Taxpayers	Individual business taxpayers classified as Micro and Small
2024 AITR Filing Options	May be filed manually or electronically
Manual Filing Procedures	<ol style="list-style-type: none"> 1. Download the BIR Form No. 1701-MS from the BIR website 2. Accomplish in 3 copies in Legal/Folio size bond paper 3. File with any AAB or RDO
Electronic Filing Procedures	Use the available forms in the eFPS and eBIRForms (<i>i.e.</i> , BIR Form Nos. 1701 and 1701A) since BIR Form No. 1701-MS is not yet available

Note: If the taxpayer paid through the BIR ePay gateways, the return and the proof of payment shall be filed with any RDO.

VI. Guidelines for the Attachments to the 2024 AITR

A. Required Attachments

- ☑ Filing Reference Number (for eFiling in eFPS) or Tax Return Receipt Confirmation (for eFiling in eBIRForms);
- ☑ Proof of Payment/Acknowledgment Receipt of Payment
- ☑ Certificate of Independent CPA (BIR-accredited)
- ☑ Unaudited/Audited Financial Statements (AFS)
- ☑ Notes to the AFS
- ☑ Statement of Management Responsibility
- ☑ BIR Form No. 2307 – Certificate of Creditable Tax Withheld at Source
- ☑ BIR Form No.1606 – Withholding Tax Remittance Return for Onerous Transfer of Real Property Other Than Capital Asset;
- ☑ BIR Form No. 2304 – Certificate of Income Payments not Subjected to Withholding Tax;
- ☑ BIR Form No. 2316 – Certificate of Compensation Payment/Tax Withheld
- ☑ System-generated Acknowledgment Receipt or Validation Report of electronically submitted Summary Alphabetical List of Withholding Taxes thru csubmission@bir.gov.ph;
- ☑ Duly approved Tax Debit Memo;
- ☑ Proof of Foreign Tax Credits;
- ☑ Proof of Prior Year’s Excess Credits;
- ☑ Proof of Other Tax Credits/Payments; and
- ☑ BIR Form No. 1709 – Information Return on Transactions with Related Party

B. Deadlines and Modes of Submission

eBIRForms/eFPS/TSP Filers and Manual Filers (for BIR Form No. 1701-MS) shall submit the applicable attachments as follows:

Date of Submission	<ul style="list-style-type: none"> ☑ Within 15 days from deadline of filing of return ☑ Within 15 days of filing the return (in case of late filing)
Mode of Submission	<p>Online through eAFS system</p> <p>Manual submission shall be allowed <u>in case of system unavailability with a duly released advisory</u></p>

Notes:

- ☑ The eAFS generated Transaction Reference Number/Confirmation Receipt shall serve as proof of submission.

For SEC purposes, companies shall attach the system-generated Transaction Reference Number/Confirmation Receipt in lieu of the manual “Received” stamp.

BIR ISSUANCE

RMC No. 38-2025, April 23, 2025. This provides clarification on the requirement of submission of taxpayer identification number of cooperative members for the issuance of certificate of tax exemption in relation to Revenue Memorandum Circular No. 158-2022

All cooperatives must ensure that their members possess valid TIN in compliance with Section 236 of the NIRC and RR No. 7-2012.

As a general rule, the cooperative must submit a list of all its members with their corresponding TIN to the BIR.

Exception:

In case the cooperatives fail to secure the TIN of all its members due to justifiable reasons, the cooperatives are given a period of nine (9) months to comply with the TIN requirement, but in no case shall it delay the processing and issuance by the concerned office of BIR of the Certificate of Tax Exemption of the cooperative.

Note:

The cooperative which fails to secure the TIN of all its members are required to submit a sworn affidavit stating therein all the justifiable reasons for failure to comply with the TIN requirement for its members prior to the application of CTE, and with an undertaking that the cooperative will comply with the TIN requirement within 9 months from the issuance of Certificate of Tax Exemption subject to administrative penalties.

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Circular Letter No. CL-2025-017,

April 15, 2025

This prescribes the publication/posting of statement of condition and/or consolidated statement of condition and balance sheet by all non-bank financial institutions with quasi-banking functions and/or trust entity and trust corporations.

BSP calls for the publication by non-bank financial institutions with quasi-banking functions and/or trust entity and trust corporations of their Statement of Condition (Head Office, branches and other offices) together with their Consolidated Statement of Condition (parent institution and its subsidiaries and affiliates), or Balance Sheet, as applicable, as of 31 March 2025, within twenty (20) working days from the date of the Circular Letter (*i.e.*, April 15, 2025) in:

- a newspaper of general circulation in the city/province where the principal office is located; or
- a newspaper published in Metro Manila or in the nearest city/province, if no newspaper is published in the same city/province where the principal office is located.

Additionally, the original and a copy of the Statement of Condition and/or Consolidated Statement of Condition, or Balance Sheet, where applicable, shall be scanned and submitted in PDF format within twenty (20) working days from the date of the Circular Letter.

Lastly, copies of the Statement of Condition and/or Consolidated Statement of Condition, or Balance Sheet, where applicable, and as published, together with the publisher's certificate, shall also be scanned and submitted in PDF format within five (5) working days from the date of publication to the following email addresses:

BSFI Type	Email Address
non-bank financial institutions with quasi-banking	fssmail@bsp.gov.ph
trust corporations	sdctc-pbs@bsp.gov.ph

SEC ISSUANCES

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SEC Memorandum Circular No. 3, Series of 2025, dated April 4, 2025

This prescribes the mandatory use of the SEC Zuper Easy Registration Online (ZERO) in the registration of corporations using the Electronic Simplified Processing of Application for Registration of Company (eSPARC) and One Day Submission and E-Registration of Companies (OneSEC) as portals.

Mandatory Use of SEC ZERO in eSPARC and OneSEC

- A user can register a new corporation through eSPARC and OneSEC using SEC ZERO as the **only** mode of processing.
- To access and facilitate the registration using SECZERO, the user must create a credentialed eSECURE account for all incorporators/signatories of the proposed corporation.
- The signatories will be able to authenticate their respective signatures through the eSAP, which is integrated into the eSPARC and OneSEC ZERO processing.

Coverage of the Mandatory Use of SEC ZERO with eSPARC and OneSEC

Domestic Stock Corporations shall be processed through the SEC ZERO, as follows:

Type of eSPARC Registration	Coverage
REGULAR with ZERO Processing	Domestic Stock Corporations (except Lending Companies and Financing Companies) <ul style="list-style-type: none"> ➤ All Filipino or with foreign equity corporation ➤ One Person Corporation ➤ Corporation with 2 to 15 incorporators
OneSEC with ZERO Processing	Domestic Stock Corporations (All Filipino) <ul style="list-style-type: none"> ➤ One Person Corporation ➤ Corporation with 2 to 15 Incorporators

For other types of corporations, the Regular Only mode of processing shall continue to apply for three (3) months from the effectivity of this Memorandum Circular.

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IC Circular Letter No. 2025-09 dated April 8, 2025

***This provides the new
Omnibus Guidelines
on Investments.***

The following are admissible investments of insurance companies, professional reinsurers, and mutual benefit associations (“MBAs”):

- ☑ Cash, time deposits, special savings accounts, deposit certificates, money market instruments, and fixed income securities with maturity of one (1) year or less, arising from an investment transaction, in currencies acceptable to the BSP as part of its international reserves;
- ☑ Marketable securities that are compliant with any of the conditions laid down in this Circular Letter;
- ☑ Investment vehicles;
- ☑ Loans;
- ☑ Purchase of accounts or loans receivables subject to the conditions and requirements of CL No. 2018-73;
- ☑ Real estate properties;
- ☑ Investments in infrastructure projects under the Philippine Development Plan, subject to the conditions and requirements of CL No. 2024-23;
- ☑ Investment in equities of other financial institutions;
- ☑ Securities issued by registered enterprise as defined in Executive Order No. 226 (s. 1987), entitled the Omnibus Investment Code;”
- ☑ Certificates, notes, and other obligations issued by the trustees or receivers of any institution created or existing under the laws of the Philippines which, or the assets of which, are being administered under the direction of any court having jurisdiction;
- ☑ Electronic Data Processing (EDP) machines or Information and Communications Technology (“ICT”) Systems and Infrastructure, subject to the conditions and requirements of CL No. 2014-18; Proprietary club shares; and
- ☑ Investment Management Agreement (IMA) or other forms of contract primarily for financial return.

These admissible investments shall not require prior approval from the Commission. However, investments under Article II, Sections 1(d)(1)(ii), (d)(2), (d)(3), (d)(5), (e), (f), (g), (h), and (l) shall require prior approval from the Commission subject to the conditions of this CL and the documentary requirements under Annex A thereof.

On the other hand, the following assets shall in no case be allowed as admitted assets of insurance companies, professional reinsurers, and MBAs doing business in the Philippines in the determination of its financial condition:

- ☑ Goodwill, tradenames, and other like intangible assets;
- ☑ Prepaid or deferred charges for expenses and commissions paid by such insurance company;
- ☑ Advances to officers (other than policy loans), which are not adequately secured and which are not previously authorized by the Commissioner, as
- ☑

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- ☑ well as advances to employees, agents, and other persons on mere personal security;
- ☑ Shares of stocks of such insurance company, owned by it, or any equity therein as well as loans secured thereby, or any proportionate interest in such shares of stock through the ownership by such insurance company of an interest in another corporation or business unit;
- ☑ Furniture, furnishing, fixtures, safes, equipment, library, stationery, literature, and supplies;
- ☑ Items of bank credits representing checks, drafts, or notes returned unpaid after the date of statement; and The amount, if any, by which the aggregate value of investments as carried in the ledger assets of such insurance company exceeds the aggregate value thereof.

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FIRB ISSUANCE

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***FIRB Advisory No.
003-2025***

The FIRB highly encourages all IPAs to use the prescribed COR template for each transitory project of RBEs qualified to avail of said non-fiscal incentives.

Pursuant to Section 29 of CREATE MORE Act, the non-fiscal incentives previously enjoyed by transitory RBEs prior to the effectivity of CREATE Act.

Transitory RBEs may continue availing of the duty and VAT exemption on importations and VAT zero-rating on local purchases beginning the effectivity of CREATE MORE Act until December 31, 2024.

The FIRB highly encourages all IPAs to use the prescribed COR template for each transitory project of RBEs qualified to avail of said non-fiscal incentives.

The CORs for transitory RBEs should include the following: IPA Name, Business Enterprise Name, Project/Activity Name, COR Number, Original Registration Date, TIN, Market Orientation, PSIC Subclass Classification, Project/Activity Address, ITH, ITH Start and End Date, Gross Income Earned and Start Date, Duty Exemption, VAT Exemption including start and end date, VAT Zero-Rating including start and end date, other types of incentives, other activity classification including their end and start date, place of issuance, board resolution date and number.

Once CORs have been signed, IPAs shall upload these to the Fiscal Incentives Registration and Monitoring System (FIRMS)

In case IPAs do not use FIRMS, they shall submit to the FIRB Secretariat the list of transitory projects, along with the above-mentioned details with new CORs within sixty (60) calendar days from the issuance of the said Advisory.

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Business Mirror Tax Law for Business



EXPORT-ORIENTED ENTERPRISES: VAT ZERO-RATING OR EXEMPTION

By
Fulvio D. Dawilan

When we talk of CREATE MORE (Republic Act No. 12066), we usually refer to the amendments made on the tax incentive rules. But aside from those changes, there are a few provisions of the National Internal Revenue Code (NIRC) that were also modified. Among these are the VAT treatment of purchases and importations made by or sales made to export-oriented enterprises.

Sales of Goods to Export-Oriented Enterprises. Sale of goods to export-oriented enterprises whose export sales is at least 70% of the total annual production of the preceding taxable year is treated as an export sale, subject to VAT at zero percent (0%). This VAT zero-rating treatment of this kind of transaction is not a new concept. However, prior to CREATE MORE, the entitlement to VAT zero-rating was limited to raw materials or packaging materials. With the new law, that limitation was removed. It should follow that all types of goods, including finished goods, sold to export-oriented enterprises should be entitled to VAT zero-rating. What is required is that the goods sold should be directly attributable to the export activity of the export-oriented enterprise/buyer.

Aside from these, there are other conditions that must be met for the VAT zero-rating to apply. Prior to CREATE MORE, the export sales should exceed 70% of the annual production. The new law uses the word “at least,” which means that zero-rating applies even if the buyer’s export sales is just 70% of annual production. The new law also made clear that the reference for the 70% export achievement shall be the transactions for the preceding taxable year. Hence, failure to achieve this percentage of export sales in a

EXPORT-ORIENTED ENTERPRISES: VAT ZERO-RATING OR EXEMPTION

By

Fulvio D. Dawilan

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taxable year will disqualify the sales of goods to export-oriented enterprises in the following year from enjoying VAT zero-rating.

Sales of Services to Export-Oriented Enterprises. Similar to goods, sale of services to export-oriented enterprises whose export sales is at least 70% of the total annual production of the preceding taxable year is treated as VAT zero-rated. The prior rule limited this VAT zero-rating privilege to the services performed by subcontractors and/or contractors in processing, converting, or manufacturing of goods for an export-oriented enterprise. CREATE MORE expanded the transactions entitled to VAT zero-rating to all types of services, as long as the services rendered are directly attributable to the export activity of the export-oriented enterprise/buyer.

Importation of Goods by an Export-Oriented Enterprise. A new provision was introduced by CREATE MORE, exempting from VAT the importation of goods by an export-oriented enterprise whose export sales is at least 70% of the total annual production of the preceding taxable year. Similar to sale of goods and services, the imported goods should be directly attributable to the export activity of the export-oriented enterprise.

Based on my reading of these modified/new provisions of the NIRC on VAT zero-rating of sales to export-oriented enterprises and the VAT exemption on their importations, I thought that the rule is simple. Sales of goods and services to export-oriented enterprises are VAT zero-rated, provided that all other conditions are present and the required certifications are obtained.

In the VAT-zero-rated sale of goods [under the modified Section 106(A)(2)(a)(3) of the NIRC], the term “export-oriented enterprise” and the “export activity” in which it is engaged in is not qualified. That means that the buyer/export-oriented enterprise may either be engaged in export of goods or export of services or both. Similarly, in VAT zero-rating for sale of services [under the modified Section 108(A)(B)(5) of the NIRC], the term “export-oriented enterprise” and the “export activity” in which it is engaged in is not qualified. That means that the buyer/export-oriented enterprise may be engaged in export of goods or services or both.

In essence, VAT zero-rating on sale of goods is not limited to sales made to exporters of goods. It applies, as well, on sales of goods made to exporters of services. Similarly, VAT zero-rating on sale of services is

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By

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not limited to sales made to exporters of services. It applies, as well, on sales of services to exporters of goods. What is important is that the goods sold or services performed are incidental to and reasonably necessary for the export activity of the buyer.

A reference, however, to the amended provisions of the VAT Regulations (RR 16-2005) seem to limit the entitlement to the VAT zero-rating. The provision of the VAT Revenue Regulations [Section 4.106-5(a)(3), as amended by RR 10-25], which implements the VAT zero-rating of sales of goods to export-oriented enterprises, defines “export-oriented enterprises” as referring to a person, natural or juridical, engaged in the sale and actual shipment of goods from the Philippines to a foreign country or economy. Similarly, the provision of the VAT Revenue Regulations [Section 4.108-5(b)(5), as amended by RR 10-25], which implements the VAT zero-rating of sales of services to export-oriented enterprises, defines “export-oriented enterprises” as referring to a person, natural or juridical, engaged in the sale of services from the Philippines to a foreign country or economy. In other words, VAT zero-rating for sale of goods will apply only if the buyer is an exporter of goods, and VAT zero-rating on sale of services will be available only if the buyer is an export of service. Suppliers of goods for exporters of goods, suppliers of services, for exporters of services – this is the effect of these rules.

I hope that this rule should be further clarified, as this would be limiting the availment of VAT zero-rating on sales made to export-oriented enterprises. Some exporters of goods rely heavily on services for the production of goods for export. Also, some exporters of services need equipment and other tangible goods to be able to render services for exports. These transactions should not be denied the benefit of VAT zero-rating.

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Glossary of Common Terms, Abbreviations, and Acronyms

AN	-	Assessment Notices
BIR	-	Bureau of Internal Revenue
BOC	-	Bureau of Customs
CIR	-	Commissioner of Internal Revenue
COC	-	Commissioner of Customs
CTA	-	Court of Tax Appeals
CWT	-	Creditable Withholding Tax
CY	-	Calendar Year
DST	-	Documentary Stamp Tax
EB	-	<i>En Banc</i>
ET	-	Excise Tax
EWT	-	Expanded Withholding Tax
FWT	-	Final Withholding Tax
FY	-	Fiscal Year
LOA	-	Letter of Authority
FAN	-	Final Assessment Notice
FDDA	-	Formal Decision on Disputed Assessment
FLD	-	Formal Letter of Demand
IT	-	Income Tax
MR	-	Motion for Reconsideration
NIC	-	Notice of Informal Conference
NIRC	-	National Internal Revenue Code
PAN	-	Preliminary Assessment Notice
Petition	-	Petition for Review
Protest	-	Protest to the Final Assessment Notice/Formal Letter of Demand
PD	-	Presidential Decree
PT	-	Percentage Tax
Reply	-	Reply to the Preliminary Assessment Notice
RA	-	Republic Act
RDO	-	Revenue District Office
RMC	-	Revenue Memorandum Circular
RMO	-	Revenue Memorandum Order
RR	-	Revenue Regulations
RTC	-	Regional Trial Court
SC	-	Supreme Court
TPI	-	Third Party Information
TY	-	Taxable Year
VAT	-	Value-Added Tax
WDL	-	Warrant of Dstraint and/or Levy
WG	-	Warrant of Garnishment
WTC	-	Withholding Tax on Compensation