

## ADVISORY ON PASS-THROUGH CHARGES AFFECTING THE POWER INDUSTRY

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**BIR REVENUE MEMORANDUM CIRCULAR  
NO. 116-2024** **3**

**Clarifying the Provisions of Republic Act  
No. 11976, or Otherwise Known as "Ease  
of Paying Taxes Act", Applicable to the  
Power Industry.**

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**CLARIFYING THE PROVISIONS OF THE "EASE OF PAYING TAXES ACT"  
APPLICABLE TO THE POWER INDUSTRY**

*Tax Treatment of Pass-Through Charges*

Entity/ies Passing-On the Charge	Pass-Through Charges	Tax Treatment
Distribution Utility (DU) Companies and Electric Cooperatives (EC)	Sale and transmission of electricity and ancillary services (including VAT) of the Generation Companies (GC) and Transmission Companies (TC)	<ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> GCs and TCs shall issue an invoice to the DU and EC for the whole generation fees and transmission fees, respectively, including the VAT.</li> <li><input checked="" type="checkbox"/> All payments by DUs and ECs pertaining to generation, transmission, and other VATable charges shall be subject to VAT.</li> <li><input checked="" type="checkbox"/> DUs and ECs shall issue an invoice to customers which shall include the pass-through charges.</li> <li><input checked="" type="checkbox"/> DUs and ECs shall not claim input tax from the pass-through charges. The proper claimants are the customers of the DUs and ECs.</li> </ul>
Retail Electricity Supplier (RES)	Transmission and distribution charges	<ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> GCs and TCs shall issue an invoice to the RES for the whole generation fees and transmission fees, respectively, including the VAT.</li> <li><input checked="" type="checkbox"/> All payments by RESs pertaining to generation, transmission and other VATable charges shall be subject to VAT.</li> <li><input checked="" type="checkbox"/> RESs shall not claim input tax from the pass-through charges.</li> </ul>

**BUREAU OF INTERNAL REVENUE  
REVENUE MEMORANDUM CIRCULAR  
NO. 116-2024**

# ADVISORY

## *VAT Declaration and Reporting by GCs and TCs*

Considering the various types of customers/end-users (i.e. VATable, zero-rated, exempt), the following shall be observed:

- ☑ Once the GCs and TCs have issued the invoice, the DUs, ECs, and RESs shall provide a **certification of zero-rated/exempt transactions** on or before the 5<sup>th</sup> day of the month following the invoice period.
- ☑ GCs and TCs will issue adjustment documents (i.e. Debit/Credit Memo/Note, Journal Voucher, Negative Invoice) to adjust output tax liability charged on zero-rated/exempt transactions

## *Tax Treatment of Specific Charges*

Charges	Tax Treatment
Mandated Government Charges <sup>1</sup>	Not subject to Output Tax and Creditable Withholding Tax on VAT and Income
5% Creditable VAT withheld by government customers	Claimed as Creditable VAT as evidenced by BIR Form No. 2307 in the VAT Returns of the DUs and ECs who issued the invoice on the sale of electricity
2% Income Tax withheld by customers engaged in business	Claimed as creditable withholding tax as evidenced by BIR Form No. 2307 in the ITR of the DUs, ECs, and RESs who issued the invoice on the sale of electricity

<sup>1</sup> Includes: (i) Energy Tax; (ii) Universal Charges; (iii) Benefits to Host Communities; (iv) Feed-in Tariff Allowance; (v) National and Local Franchise Taxes; (vi) Real Property Tax

*Transitory Provisions*

GCs and TCs shall not be liable to the remittance of all outstanding deferred VAT from the effectivity of RR No. 3-2024 on April 27, 2024. However, the following transitory provisions shall be observed:

- ☑ Submission by GCs and TCs, in hard and soft copies, of an **inventory of outstanding deferred VAT** prior to April 27, 2024, from DUs, ECs, and others. The submission shall be made to the concerned RDO/LT office on or before September 30, 2024.
- ☑ DUs and ECs shall remit the deferred VAT on behalf of the GCs and TCs using BIR Form No. 0605. The TIN of the GCs and TCs shall be clearly indicated and that the payment shall be specified as for "DEFERRED VAT – RMC No. \_\_\_\_\_"
- ☑ Submission by DUs and ECs, in hard and soft copies, of the **summary of the remittance of deferred VAT**. The submission shall be made to the concerned RDO/LT office on or before the 10<sup>th</sup> day from the date of remittance of BIR Form No. 0605.
- ☑ DUs and ECs shall provide the BIR Form No. 0605 and the proof of payment to the GCs and TCs within 3 days from the remittance to the BIR. This shall be the basis of the GCs and TCs for the issuance of the invoice (pursuant to the transitory provision of RR No. 7-2024) and to record the payment of the deferred VAT. The unremitted portion of the deferred VAT prior to April 27, 2024, if any, shall remain outstanding until fully collected or closed in a tax audit.

**Notes:**

1. RMC No. 116-2024 includes the following annexes:
  - ☑ Annex A – Certification of zero-rated/exempt transactions
  - ☑ Annex B – Inventory of outstanding deferred VAT
  - ☑ Annex C – Summary of the remittance of deferred VAT
2. Deadline of submission of the inventory of outstanding deferred VAT is September 30, 2024, despite RMC No. 116-2024 being published on October 18, 2024. This may be due to the fact that RMC itself was dated August 21, 2024, but published only on October 18, 2024.

**Source:**

*BIR Revenue Memorandum Circular No. 116-2024*