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***THE NEW VAT SYSTEM
AFTER TRAIN LAW & CREATE
(VAT ZERO-RATED TRANSACTIONS)***

OUTLINE

VAT Zero-Rated Sales

VAT Zero-Rating of Local Purchases by Registered Business Enterprises

- *Separate Customs Territory Concept and the Cross-Border Doctrine*
- *Revisit of Revenue Memorandum Circular No. 74-99*
- *VAT Incentive Under CREATE*



VAT ZERO-RATED TRANSACTIONS UNDER THE TAX CODE

Previously Zero-Rated Sales, Now Subject to 12% VAT

	Conditions* for Imposing 12% VAT (TRAIN Law)
A. Goods Transactions Covered by Section 106(A)(2)(a), subparagraphs: 3, 4 and 5, of the NIRC	1. The successful establishment and implementation of an enhanced VAT refund system that grants refund of creditable input tax within 90 from the filing of application. To determine the effectivity, all applications filed from January 1, 2018 are processed and decided within 90 days from the filing of the VAT refund application.
B. Services Transactions covered by Section 108(B), subparagraphs: 1 and 5, of the NIRC	

*Per **Revenue Regulations No. 09-2021**, these conditions have been satisfied, hence, the imposition of 12% VAT on the covered transactions.

Previously Zero-Rated Sales, Now Subject to 12% VAT

	Conditions* for Imposing 12% VAT (TRAIN Law)
A. Goods	2. All pending VAT refund claims as of December 31, 2017 shall be fully paid in cash by December 31, 2019.
Transactions Covered by Section 106(A)(2)(a), subparagraphs: 3, 4 and 5, of the NIRC	
B. Services	
Transactions covered by Section 108(B), subparagraphs: 1 and 5, of the NIRC	

*Per **Revenue Regulations No. 09-2021**, these conditions have been satisfied, hence, the imposition of 12% VAT on the covered transactions.

	Prior to TRAIN	TRAIN	CREATE
Sec 106(A)(2)			
(a) Export sales:			
(1) Sale and actual shipment of goods from the Phils. to foreign country	0-rated	Same	
(2) Sale and delivery of goods to registered enterprises within separate customs territory and tourism enterprises zones	N/A	Vetoed	N/A

	Prior to TRAIN	TRAIN	CREATE
Sec 106(A)(2)			
(a) Export sales:			
(3) 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	0-rated (now subject to 12% VAT upon satisfaction of the conditions provided in the law)	No effect / Now subject to VAT pursuant to RR 09-21
(4) 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)			
(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) 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	

Note:

List does not include sales to BSP and foreign currency denominated sales which were previously zero-rated but repealed by TRAIN

VAT Zero-Rated Sales of Service



	Prior to TRAIN	TRAIN	CREATE
Sec 108(B)			
1. Processing, manufacturing or repacking goods for other persons doing business outside the Phils. which goods are subsequently exported	0-rated	0-rated, to be subject to 12% VAT upon satisfaction of the conditions provided in the law	No effect / Now subject to VAT per RR 09-21
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)			
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	

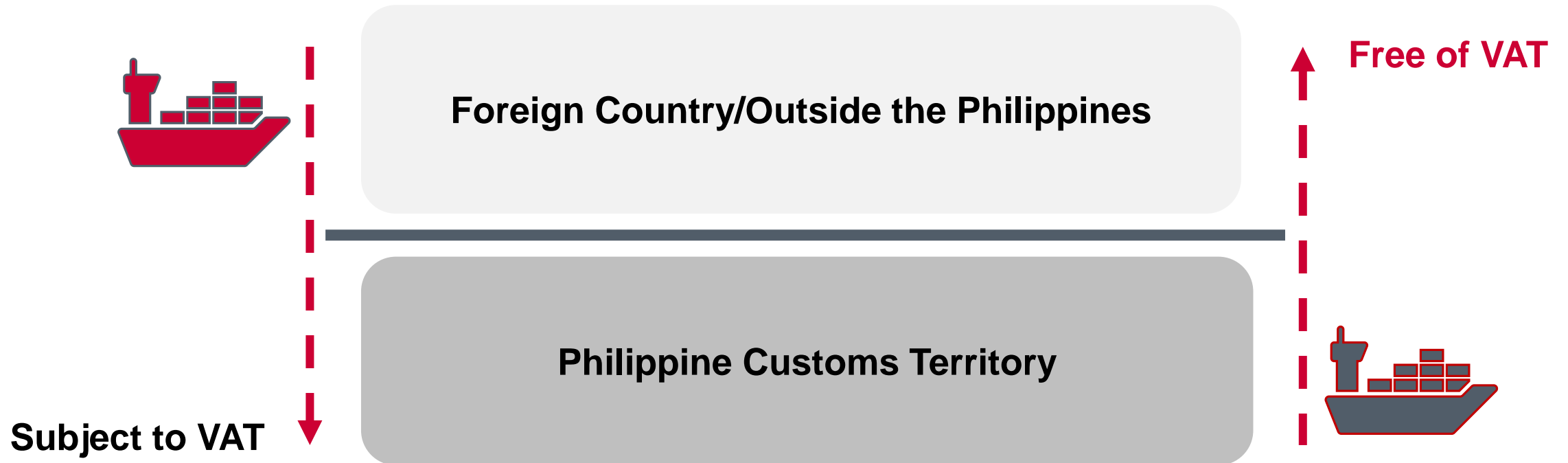
	Prior to TRAIN	TRAIN	CREATE
Sec 108(B)			
5. Services rendered to persons by subcontractors and/or contractors in processing, converting or manufacturing goods for an enterprise whose export sales exceed 70% of total annual production	0-rated	0-rated, to be subject to 12% VAT upon satisfaction of the conditions provided in the law	No effect/ Now subject to 12% VAT per RR 09-21
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)			
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**



Cross Border Doctrine



Freeport/Special Economic Zone as Separate Customs Territory

Freeport /
Ecozones

Sec 8, RA 7916 – “The ECOZONE shall be managed and operated by PEZA as separate customs territory.”

Sec 12(b), RA 7227 – “...The Subic Special Economic Zone shall be operated and managed as a separate customs territory..”

Similar provisions on other laws creating economic zones

CREATE

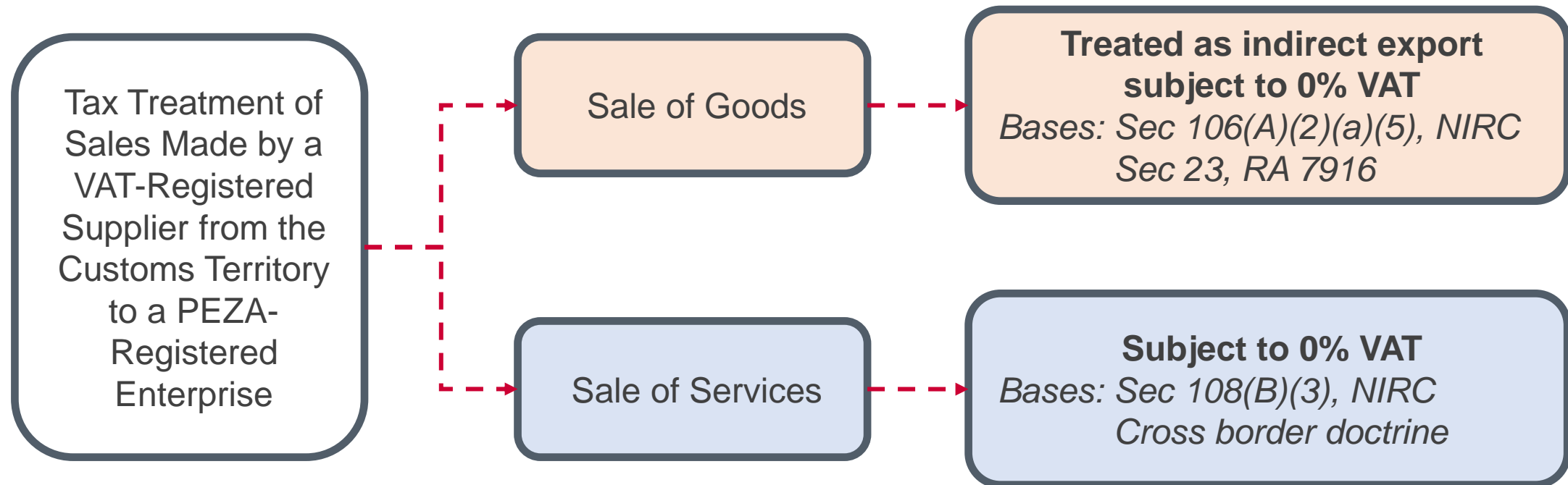
- Defines **special economic zone** as “a selected area ... operated and managed as separate customs territory...”
- Defines **Freeport Zone** as “an isolated and policed area ... which shall be operated and managed as separate customs territory...”

ECOZONE,
as separate
customs
territory =
**foreign
territory**

Cross Border Doctrine Applied On Separate Customs Territory



Rule Under Revenue Memorandum Circular No. 74-99



Note: This rule applies regardless of the tax regime of the registered enterprise

VAT Incentives of RBEs

Under CREATE

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**

Incentive

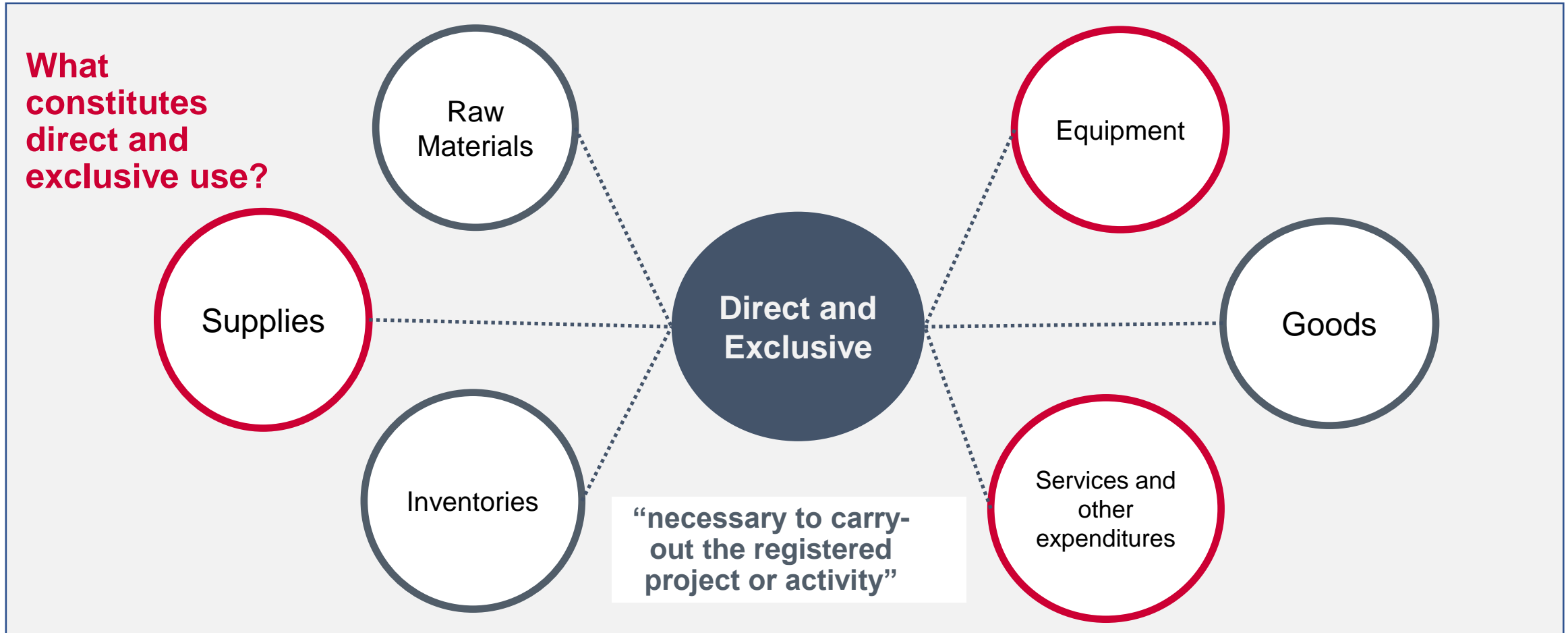
Under the IRR of CREATE

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

Conditions of Availment

Shall only apply to goods and services **directly and exclusively** used in the registered project or activity of **export enterprises**

VAT Incentives of RBEs Based on the IRR of CREATE



VAT Incentives of RBEs Based on the IRR of CREATE

» Transactions falling under Section 106(A)(2)(a)(3), (4), and (5) and Section 108(B)(1) and (5) of the NIRC shall be subject to 12% VAT pursuant to RR 09-21

» The excess input taxes attributable to zero-rated sales by VAT-registered RBEs may be refunded or applied for tax credit

Other Terms

Note:

- ❑ Under present rules, RBEs enjoying the 5% tax are considered VAT exempt. In fact, the present rules require them to register as non-VAT (VAT exempt). Also, only VAT registered taxpayers are allowed to claim refund for unutilized input taxes.
- ❑ This is not available to VAT exempt taxpayers. Hence, there may be a need to amend the rules to allow RBEs enjoying 5% tax to remain registered or to register as VAT taxpayers.

TAX • LEGAL • CONSULTING

Holistic. Professional. Personal.



20th Floor, Chatham House
Rufino corner Valero Street
Makati City 1227, Philippines



+63 2 403 2001 ext. 300



info@bdblaw.com.ph



www.bdblaw.com.ph

THANK YOU