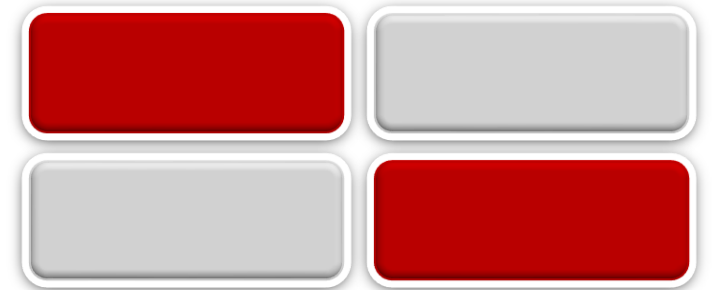


# Updates on Revenue Issuances

**Atty. Fulvio D. Dawilan**



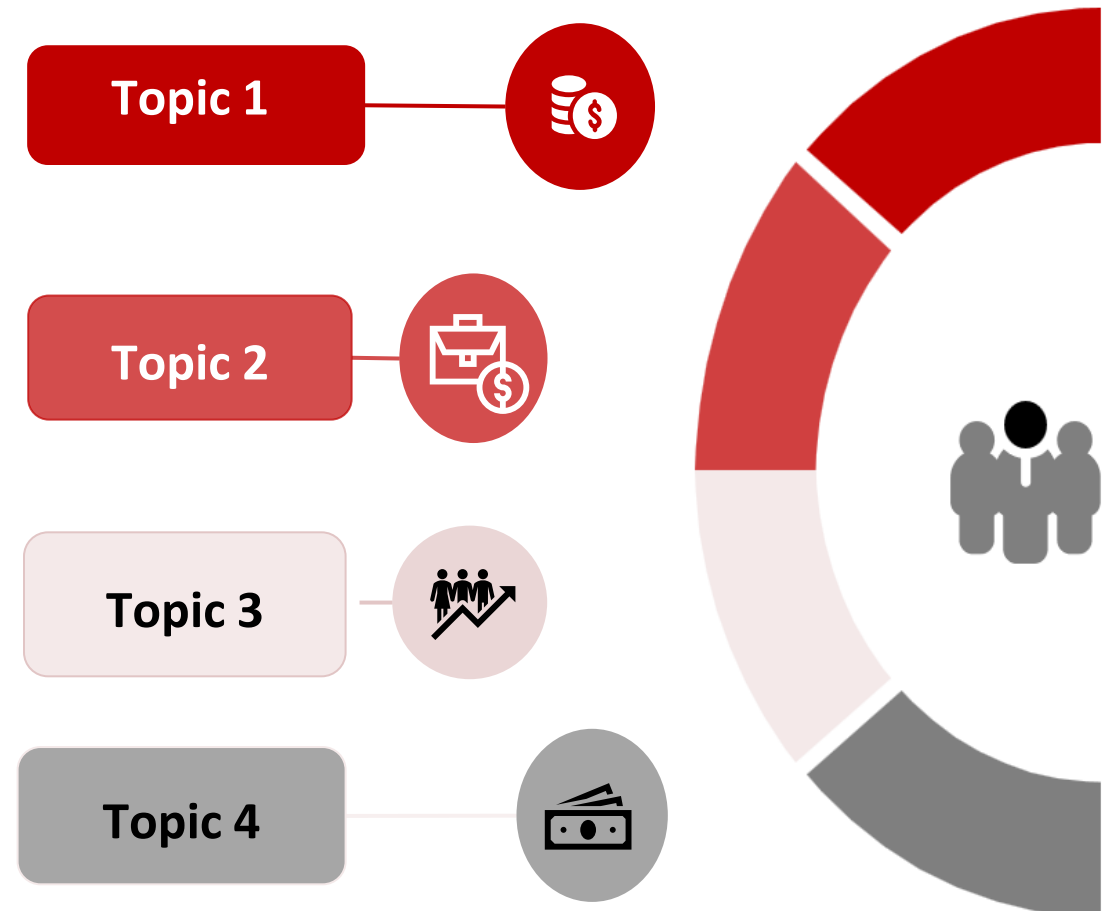
# OUTLINE

**Value-Added Tax Incentives of Registered Business Enterprises and VAT Treatment of Sales to Same Enterprises**

**Updates on Invoicing Requirements**

**Tax-Free Transfers**

**Other Updates**



## 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

### References

## VAT Incentives for Registered Business Enterprises Under CREATE and its IRR

### 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)*

## Conditions for Availment of VAT Incentives for Registered Business Enterprises

### VAT Incentives of Registered Business Enterprises

### References

#### 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]

#### Conditions of Availment

#### 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 36-2022 for the template on the VAT zero-rating certification)

## VAT Incentives of Registered Business Enterprises

### References

## 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	Definition
<p>Section 293(M) of the NIRC, as amended by CREATE; Section 4(W) of the CREATE IRR</p>	<p><b>Registered business enterprise</b> refers to any individual, partnership, corporation, Philippine branch of a foreign corporation, or other entity organized and existing under Philippine laws and <b>registered with an Investment Promotion Agency</b> 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</p>

## VAT Treatment of Sales to Registered Business Enterprises

### Definition of Registered Business Enterprise

Legal Reference	Definition
<p>Section 293(E) of the NIRC, as added/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 RR 21-2021</p>	<p><b>Registered Export Enterprise is:</b></p> <p>a. <b>An Export enterprise</b> - refers to any individual, partnership, corporation, Philippine branch of a foreign corporation, or other entity organized and existing under Philippine laws and <b>registered with an Investment Promotion Agency</b> 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 of the latter, of at least seventy percent (70%) of its local production or output.</p> <p>b. A registered business enterprise</p>



## VAT Treatment of Sales to Registered Business Enterprises

- ✓ 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. 16-05 (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)

## References

## VAT Treatment of Sales to Registered Business Enterprises

VAT Zero-Rating Under CREATE, as implemented by the VAT Regulations (RR 21-2021, amending the VAT Regulations - RR 16-2005

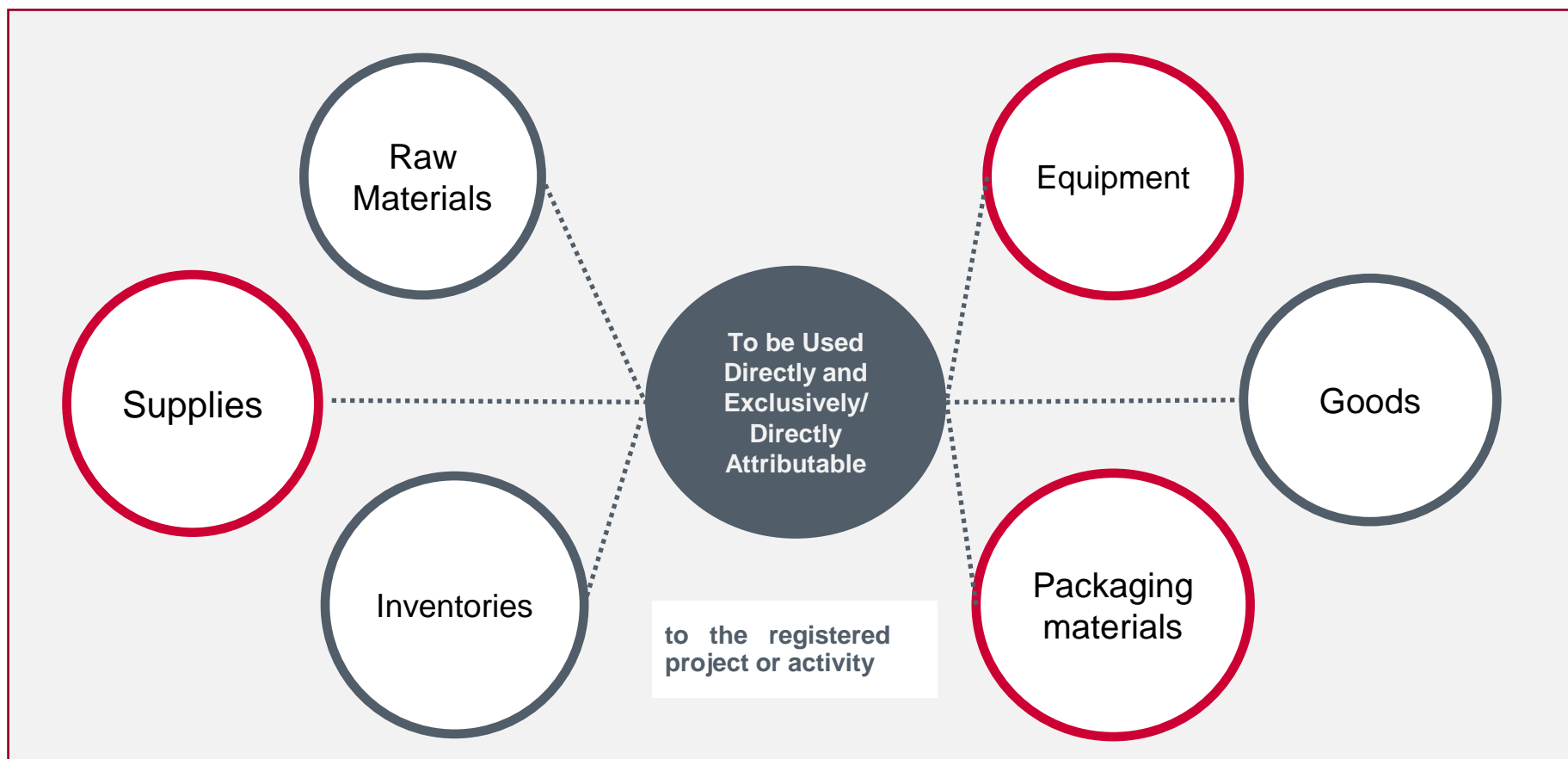
# Sales of Goods to Registered Export Enterprises

Reference	Coverage
<ul style="list-style-type: none"> <li>- added Section 106-5(c) to the list of zero-rated sales of goods</li> <li>- implements Section 294(E) and 295 (D) of the Tax Code, as amended by CREATE and Section 5, Rule 2 of the IRR</li> </ul>	<ul style="list-style-type: none"> <li>✓ Sale of raw materials inventories, supplies, equipment, packaging materials and goods, to a registered export enterprise, to be used directly and exclusively in its registered project or activity pursuant to Sections 294(E) and 295(D) of Republic Act No. 11534 or the "Corporate Recovery and Tax Incentives for Enterprise Act" ("CREATE Act"), and Section 5, Rule 2 of its IRR for a maximum period of seventeen (17) years from the date of registration, unless otherwise extended under the SIPP</li> <li>✓ Sales to <b>existing registered export enterprises located inside ecozones and freeport zones</b> shall also be qualified for VAT zero-rating <b>until the expiration of the transitory period.</b></li> </ul>

VAT Treatment of  
Sales to Registered  
Business  
Enterprises

VAT Zero-Rating  
Under CREATE, as  
implemented by  
the Section 4.106-  
5(c) of RR No. 16-  
2005 (As amended  
by **RR No. 21-2021**)

## Sales of Goods to Registered Export Enterprises



VAT Treatment of Sales to Registered Business Enterprises

VAT Zero-Rating Under CREATE, as implemented by the VAT Regulations (RR 21-2021, amending the VAT Regulations RR 16-2005)

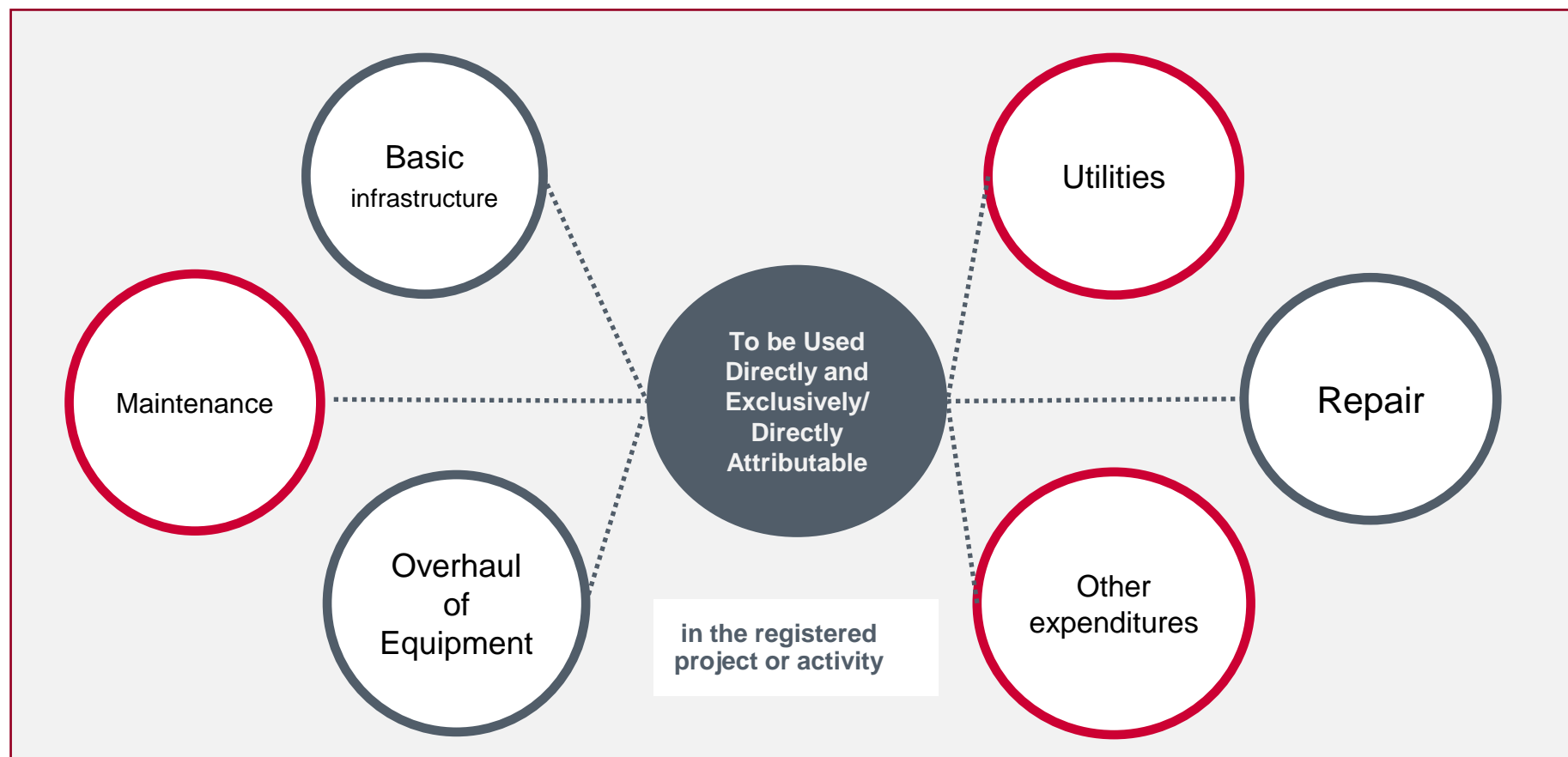
## Sales of Services to Registered Service Enterprises

Reference	Coverage
<ul style="list-style-type: none"> <li>- added Section 108-5(B)(3) to the list of zero-rated sales of services</li> <li>- implements Section 294(E) and 295 (D) of the Tax Code, as amended by CREATE</li> </ul>	<ul style="list-style-type: none"> <li>✓ Sale of services, including provision of basic infrastructure, utilities, and maintenance, repair and overhaul of equipment, to a registered export enterprise, to be used directly and exclusively in its registered project or activity pursuant to Sections 294 (E) and 295 (D) of CREATE Act, and Section 5, Rule 2 of its IRR for a maximum period of seventeen (17) years from the date of registration, unless otherwise extended under the SIPP</li> <li>✓ Sales to <b>existing registered export enterprises located inside ecozones and freeport zones</b> shall also be qualified for VAT zero-rating <b>until the expiration of the transitory period.</b></li> </ul>

VAT Treatment of  
Sales to Registered  
Business  
Enterprises

VAT Zero-Rating  
Under CREATE, as  
implemented by  
the Section 4.108-  
5(3) of RR No. 16-  
2005 (As amended  
by **RR 21-2021**)

## Sales of Services to Registered Service Enterprises, including



VAT Treatment of  
Sales to Registered  
Business  
Enterprises

VAT Zero-Rating of  
Sales to  
Registered Export  
Enterprises -  
Summary

## 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	Clarifications
Cross-border doctrine	Rendered ineffectual and inoperative for VAT purposes
VAT treatment of sales to registered export enterprises, <b>regardless of location</b>	VAT zero-rated provided all the conditions for zero-rating are present
Purchases used for both registered and unregistered activities	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.
VAT registration for REEs	<p>Still under ITH - should be VAT registered</p> <p>Expired ITH and enjoying 5% SCIT, change to Non-VAT</p> <p>Those with multiple incentives (ITH and 5% SCIT) shall remain as VAT-registered until the expiration of the ITH for all registered activities and covered by the 5% special income tax rate</p>

## VAT Treatment of Sales to Registered Business Enterprises

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

Issues/Concerns	Clarifications
Requirement to apply for VAT zero-rating	<p>Prior approval from the BIR has to be secured by local suppliers.</p> <p>Documents to be submitted to BIR:</p> <ol style="list-style-type: none"> <li>1. Certificate of Registration and VAT certification issued by the IPA (<i>see RMC 36-2022 for the template of the VAT 0% Certification</i>)</li> <li>2. Sworn affidavit executed by the registered export enterprise (<i>see RMC 84-2022 for the template</i>)</li> <li>3. Other documents</li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Absence of prior approval may result in the disallowance of VAT zero-rated sale</li> <li><input type="checkbox"/> 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.</li> </ul>



# Updates on Invoicing Requirements

1

Validity Period for Receipts and Invoices

2

Use of Electronic Invoicing/Receipting System

3

Admissibility of Sales Document on Electronic Format

## Validity Period on Receipts and Invoices

- ✓ Authority to Print receipts and invoices shall be valid for 5 years from its issuance (RR 18-2012)
  
- ✓ The following information were required to be printed at the bottom portion of the Official receipt, Sales Invoice or Commercial Invoice:
  - ATP number, OCN, date issued (mm/dd/yyyy) and valid until (mm/dd/yyyy)
  - The phrase **"THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE ATP."** (RMO 12-2013)

## Old Rules

## Validity Period on Receipts and Invoices

- ✓ The same rule was extended to Permits to Use Cash Register Machines (CRMs), Point-of-Sale (POS) Machines and Other Sales Receipting Software by requiring the printing of the phrase -

**"THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE PERMIT TO USE."**

at the bottom of the official receipt, sales invoice or commercial invoice.  
(RR 10-2015)

- ✓ Also, all primary and supplementary receipts/invoices must reflect the "Effectivity Date" as "Date Issued" and the "Valid Until".... (RMC 107-2019)

Validity Period on  
Receipts and  
Invoices

- ✓ The 5-year validity period for Permit To Use and the system-generated receipts and invoices is removed.

- ✓ The phrase

**"THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM  
THE DATE OF THE PERMIT TO USE"**

and

**"Valid Until"**

shall be omitted.

New Rules  
Revenue  
Regulations No. 6-  
2022  
(May 23, 2022)

Validity Period on  
Receipts and  
Invoices

- ✓ Authority To Print principal and supplementary receipts/invoices inclusive of its serial numbers and its usage shall have no expiration. Accordingly, the phrase

**"THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE PERMIT TO USE"**

and

**"Valid Until (mm/dd/yy)"**

shall be omitted.

New Rules  
Revenue  
Regulations No. 6-  
2022  
(May 23, 2022)

Validity Period on  
Receipts and  
Invoices

**New Rules  
Revenue  
Regulations No. 6-  
2022  
(May 23, 2022)**

**It covers taxpayers applying for:**

- ✓ ATP official receipts, sales invoices and other commercial invoices
- ✓ Registration of Computerized Accounting System/Component of Computerized Accounting System, and
- ✓ PTU CRMS and POS

Validity Period on  
Receipts and  
Invoices

**New Rules  
Revenue  
Regulations No. 6-  
2022  
(May 23, 2022)**

## Transitory Period

### ***For Manual Receipts/Invoices with ATP***

- ✓ The validity date and phrases printed on unused receipts/invoices shall be disregarded. The same may still be used until fully exhausted.
- ✓ Subsequent printing must not reflect the previously required phrase and shall no longer adopt the 5-year validity.

### ***For Receipts/Invoices Generated from CAS, Component of CAS with PTU or Accreditation Certificate***

- ✓ All system-generated receipts/invoices issued with the previously required phrases shall be disregarded.
- ✓ The system/software generating such receipts/invoices must be reconfigured to omit the said phrases.

Validity Period on  
Receipts and  
Invoices

**New Rules  
Revenue  
Regulations No. 6-  
2022  
(May 23, 2022)**

## **Transitory Period**

### ***For Receipts/Invoices Generated from CRMS and POS machines with PTU***

- ✓ All system-generated receipts/invoices issued with the previously required phrases shall be disregarded.
- ✓ The system/software generating such receipts/invoices must be reconfigured to omit the said phrases.



## Electronic Invoicing/ Receipting System

Revenue  
Regulations No. 8-  
2022  
(June 22, 2022)

# Coverage

### ***Mandatory***

- ✓ Taxpayers engaged in the export of goods and services;
- ✓ Taxpayers engaged in electronic commerce; and
- ✓ Taxpayers under the Large Taxpayers Service.

### ***Optional***

- ✓ Other taxpayers may issue electronic receipts or sales/commercial invoices in lieu of manual receipts/invoices.

## Electronic Invoicing/ Receipting System

Revenue  
Regulations No. 8-  
2022  
(June 22, 2022)

# Requirements for Covered Taxpayers

- ✓ Issuance of e-Receipts/e-Invoices to their customers/buyers, in lieu of manual receipts/invoices;
- ✓ Registration of their
  - Computerized Accounting System generating e-receipts/e-invoices and/or
  - Cash Register Machines/Point-of-Sales Systems
  - Certification of Sales Data Transmission System
- ✓ Transmission of the sales data covered by the e-receipts/e-invoices using their Sales Data Transmission System into the EIS of the BIR

Admissibility of  
Sales Documents in  
Electronic Format

Revenue  
Regulations No. 9-  
2022  
(June 23, 2022)

## Coverage

- ✓ Taxpayers engaged in the export of goods and services;
- ✓ Taxpayers engaged in electronic commerce; and
- ✓ Taxpayers under the Large Taxpayers Service.

Covers also taxpayers that are not included in these groups of taxpayers but have been authorized by the BIR to issue electronic sales invoices/official receipts thru the web-based facility of the EIS.

Admissibility of  
Sales Documents in  
Electronic Format

Revenue  
Regulations No. 9-  
2022  
(June 23, 2022)

## Policies and Guidelines

1. Sales and purchases data that will be generated and verified thru the EIS , in lieu of hard copies, are admissible at the time of audit or investigation of the taxpayer
2. The requirement for stamping the term “zero-rated” on the face of the receipt or invoice is no longer necessary, since there is separate reporting for each sales classification
3. Taxpayers duly authorized to use EIS shall not be required to submit printed copies of invoices or receipt issue for their sales

Admissibility of  
Sales Documents in  
Electronic Format

**Revenue  
Regulations No. 9-  
2022  
(June 23, 2022)**

## **Policies and Guidelines**

4. Printed Invoices/Receipts for purchases from suppliers using the web-based issuance in the EIS, or thru the Sales Data Transmission System, will no longer be required to be submitted.
5. The original form or digital copies must be retained in order for the taxpayer to be able to provide the same upon demand for verification and validation of the sales and purchases data generated thru the EIS or submitted electronic forms of invoices or receipts.
6. Revenue officers are not precluded from accessing the CAS or POS/CRM machines of the taxpayer under the EIS for validation purposes

## Tax Free Transfer of Property

### References

- ✓ Section 40(C)(2) of the NIRC
- ✓ Section 8, Revenue Regulations No. 05-2021 (April 8, 2021)
- ✓ Revenue Memorandum Circular No. 19-2022 (February 04, 2022)

## Tax Free Transfer of Property

### Section 40(C)(2) of the NIRC

Before	Amendments
<p>Non-recognition of gain or loss pursuant to a merger or consolidation by the following parties:</p> <ul style="list-style-type: none"><li>✓ A corporation</li><li>✓ A shareholder</li><li>✓ A security holder of a corporation</li></ul>	<p>Non-recognition of gain or loss on a corporation, or on its stock, or securities in a REORGANIZATION OR EXCHANGES OF PROPERTIES by the following:</p> <ul style="list-style-type: none"><li>✓ A corporation who is a party to the merger or consolidation</li><li>✓ A corporation acquiring the stock of another corporation resulting in control</li><li>✓ A corporation acquiring all of the properties of another corporation</li><li>✓ Recapitalization</li><li>✓ Reincorporation</li></ul>

## Tax Free Transfer of Property

### Section 40(C)(2) of the NIRC

Before	Amendments
<p>No gain or loss shall also be recognized if property is transferred to a corporation by a person in exchange for stock or unit of participation in such a corporation of which as a result of such exchange said person, alone or together with others, not exceeding four (4) persons, gains control of said corporation: xxx</p>	<p>No gain or loss shall also be recognized if property is transferred to a corporation by a person, <b>alone or together with others, not exceeding four (4) persons</b> in exchange for stock or unit of participation in such a corporation of which as a result of such exchange the <b>transferor or transferors, collectively, gains or maintains</b> control of said corporation: xxx</p>



Tax Free Transfer of  
Property

Revenue  
Regulations  
Implementing Tax  
Free Exchanges of  
Properties

## **Sec. 8, Revenue Regulations No. 05-2021 (April 08, 2021)**

- ✓ Non-recognition of gain or loss on a corporation or on its stock or securities if the corporation is a party to a reorganization
- ✓ Non-imposition of VAT
- ✓ Prior ruling for availment of tax exemption is not required
- ✓ Parties can implement the transaction, including the application/issuance of the Certificate Authorizing Registration (CAR), subject to post-audit by the BIR

## Tax Free Transfer of Property

**Clarifications by Revenue Memorandum Circular No. 19-2022 (February 4, 2022)**

### **Taxes covered by the exemptions on transfer of properties in exchange for shares of stock pursuant to a tax-free exchange:**

- ✓ Capital gains tax
- ✓ Creditable withholding tax
- ✓ Income tax
- ✓ Donor's tax
- ✓ Value-added tax
- ✓ Documentary stamp tax on conveyances of real properties and shares of stocks

**Note:** Original issuance of shares in exchange for the properties transferred shall be subject to DST.

Tax Free Transfer of  
Property

Clarifications by  
Revenue  
Memorandum  
Circular No. 19-  
2022  
(February 4, 2022)

## Venue for the application/issuance of Certificate Authorizing Registration (CAR)

RDO having jurisdiction over the place

- ✓ **where the property is located** - in case of real property
- ✓ **where the issuing corporation is registered** - in case of shares of stock
- ✓ **where the transferee corporation is registered** - in case transaction involves multiple properties and/or shares of stocks in various locations covered by different RDOs

Tax Free Transfer of  
Property

Clarifications by  
Revenue  
Memorandum  
Circular No. 19-  
2022  
(February 4, 2022)

## Option to request for legal opinion/ruling to clarify legal issues

- ✓ **Taxpayer is not precluded from requesting a ruling/legal opinion** with the Law and Legislative Division of the BIR National Office in order to clarify legal issue/s affecting the transaction, including the taxability of the transaction
- ✓ The BIR will evaluate whether or not the request involves question of law that would merit the issuance of a ruling. If not, the request will be endorsed to the concerned RDO for appropriate action.

## Tax Free Transfer of Property

### Clarifications by Revenue Memorandum Circular No. 19-2022 (February 4, 2022)

**Applicability of existing issuances on exchanges of properties pursuant to section 40(C)(2) of the NIRC, particularly on the establishment and monitoring of substituted basis of properties transferred and stocks received, in case of their subsequent sale/disposition, including tax treatment**

- ✓ **RR No. 18-2001** – guidelines on the monitoring of properties transferred and shares received
- ✓ **RMR No. 1-2001** – tax consequences of tax-free exchange of property for shares of stock of a controlled corporation
- ✓ **RMR No. 1-2002** – tax consequences of a de facto merger
- ✓ **RMR No. 2-2002** – guidelines in the determination of substituted basis of property transferred and shares received pursuant to Section 40(C)(5) of the NIRC
- ✓ **RMO No. 32-2001** – guidelines implementing RR 18-2001
- ✓ **RMO No. 17-2016** – supplemental guidelines for the non-recognition of gain/loss on transfer of property in exchange for shares

## Other Updates

1

Availment of Tax Treaty Relief

2

Taxation of Educational Institutions

3

Allocation of Costs and Expenses Among Income Earnings of Banks and Other Financial Institutions

4

Non-Imposition of Surcharge on Amended Returns

5

Clarification of DST on Transfer of Shares of Stock

6

Treatment of Input Taxes on Purchases of Capital Goods

## Update on Availment of Tax Treaty Relief

### References

- ✓ Revenue Memorandum Order No. 14-2021 (March 31, 2021)
- ✓ Revenue Memorandum Circular No. 77-2021 (June 15, 2021)
- ✓ Revenue Memorandum Circular No. 20-2022 (February 17, 2022)

## Update on Availment of Tax Treaty Relief

Revenue  
Memorandum  
Order No. 14-2021

and

Revenue  
Memorandum  
Circular No. 77-  
2021)

- ✓ Filing with the International Tax Affairs Division of the BIR
  - Tax Treaty Relief Application (TTRA)
  - Request for Confirmation (RFC)
  
- ✓ Issuance of Certificate of Entitlement to Treaty Benefits (COE) if approved or denial if not approved



Update on Availment  
of Tax Treaty Relief

Revenue  
Memorandum  
Circular No. 20-  
2022

## Types and Effects of COEs issued

	Recurring Transactions	Non-Recurring Transactions
<b>Content and applicability of COE</b>	Contains a proviso stating that the same ruling shall <b>apply to future income payments to the same non-resident payee</b> provided that conditions set therein are present	Limits the applicability of ruling to a particular transaction or period of engagement
<b>Types of Income Payments Covered</b>	<ul style="list-style-type: none"> <li>✓ Dividends</li> <li>✓ Branch profit remittance</li> <li>✓ Interest</li> <li>✓ Royalties</li> <li>✓ Income from air/sea transport</li> <li>✓ Guarantee or substitution fees</li> </ul>	<ul style="list-style-type: none"> <li>✓ Business profits</li> <li>✓ Capital gains</li> <li>✓ Income of teachers</li> <li>✓ Income from services</li> </ul>

Update on Availment  
of Tax Treaty Relief

Revenue  
Memorandum  
Circular No. 20-  
2022

## Types and Effects of COEs issued

	Recurring Transactions	Non-Recurring Transactions
<b>Benefits</b>	If tenor allows COE to be applied to future income payments, no need to file TTRA/RFC everytime an income of similar nature is paid to the same non-resident, subject to compliance with conditions provided in COE	

Income Tax  
Treatment of  
Educational  
Institutions

References

- ✓ Section 27(B) of the NIRC, as amended by Republic Act No. 11635
- ✓ Revenue Regulations No. 03-2022 (April 7, 2022)
- ✓ Revenue Memorandum Circular No. 78-2022 (June 08, 2022)

Income Tax  
Treatment of  
Educational  
Institutions

Section 27(B) of  
the NIRC

## Tax Code Provisions Before and After Amendment

Before Amendment	After Amendment by RA 11635
Proprietary educational institutions and hospitals which are nonprofit shall pay a tax of ten percent (10%)* on their taxable income	Hospitals which are nonprofit and proprietary educational institutions shall pay a tax of ten percent (10%)* on their taxable income

**\*1% from July 1, 2020 to June 30, 2023**

Income Tax  
Treatment of  
Educational  
Institutions

Revenue  
Regulation No. 3-  
2022  
and  
Revenue  
Memorandum  
Circular No. 78-  
2022  
(June 08, 2022)

## A. Proprietary Educational Institutions

Any private school maintained and administered by private individuals or groups with an issued permit to operate from the DepEd or CHED, or TESDA, as the case may be.

Income Tax Rate:

- a. Domestic corporations, including domestic Non-stock, nonprofit educational institutions whose net income or assets accrue/inure to or for the benefit of any member or specific persons  
10% (1% from July 1, 2020 to June 30, 2023)
- b. If gross income from unrelated trade, business or other activity exceeds 50% of the total gross income derived from all sources  
25%/20% regular corporate income tax
- c. Resident foreign corporations - 25% regular corporate income tax
- d. Individuals - Regular income tax rate applicable to individuals

Income Tax  
Treatment of  
Educational  
Institutions

## **B. Government Educational Institutions**

Income Tax Rate: Exempt

## **C. Non-Stock and Nonprofit Educational Institutions**

Income Tax Rate: Exempt

Requisites

1. The school must be non-stock and non-profit; and
2. The income is actually, directly and exclusively used for educational purposes.

Revenue  
Regulation No. 3-  
2022  
and  
Revenue  
Memorandum  
Circular No. 78-  
2022  
(June 08, 2022)

Allocation of Costs  
and Expenses  
Among Income  
Earnings of Banks  
and Other Financial  
Institutions

Revenue  
Regulations No. 4-  
11

- ✓ All costs and expenses should be allocated between the Regular Banking Unit and FCDO/EFCDU or OBU using the following basis:
  1. **By Specific Identification** – Expenses which can be specifically identified to a particular unit (RBU, FCDO/EFCDU or OBU) shall be reported and declared as the cost or expenses of that unit
  2. **By Allocation** – Common expenses or expenses that cannot be specifically identified for a particular unit shall be allocated based on percentage share of gross income earnings of a unit to the total gross income earnings subject to regular income tax and final tax including those exempt from income tax.
  
- ✓ Same rule applies to other financial institutions with reference to allocating cost and expenses among income earnings derived from active business operation which are subject to regular income tax, passive activities which are subject to final tax and other activities producing income which are exempt from income taxes.`

Allocation of Costs  
and Expenses  
Among Income  
Earnings of Banks  
and Other Financial  
Institutions

Revenue  
Regulations No. 4-  
11 invalidated by  
the Supreme Court  
in G.R. Nos.  
240163 and  
240168-69  
(December 1, 2021)

## Reasons for Invalidating RR No. 4-2011:

- ✓ RR 4-2011 contravenes Section 43 of the NIRC, which provides the general rule for taxpayer's accounting periods and methods of accounting.
- ✓ RR 4-2011 unduly expands Section 50 (Allocation of Income and Expenses Among Related Parties) of the NIRC
- ✓ RR 4-2011 inevitably impairs the taxpayers' right to claim deductions



Non-Imposition of  
Surcharge on  
Amended Returns

Revenue  
Memorandum  
Circular No. 43-  
2022  
(April 08, 2022)

## Previous Rule under Revenue Memorandum Circular No. 54-2018

- ✓ When an additional tax is due per amended tax return, a 25% surcharge shall be imposed based on the additional tax to be paid.

Non-Imposition of  
Surcharge on  
Amended Returns

Revenue  
Memorandum  
Circular No. 43-  
2022  
(April 08, 2022)

## New Rule under Revenue Memorandum Circular No. 43-2022

- ✓ 25% surcharge shall not be imposed to an amendment of a tax return if the taxpayer was able to file the initial tax return on or before the prescribed due date for filing

***What if the initial return was filed after the due date? Is there a 25% surcharge if there is an additional tax due per amended return?***

- ✓ A 25% surcharge shall be imposed on a tax deficiency found during audit if the particular tax return being audited was found to have been filed beyond the prescriptive period

***What about if the return was filed on time? Will the deficiency tax be subject to surcharge?***

Clarification of DST  
on Transfer of  
Shares of Stock

Revenue  
Memorandum  
Circular No. 06-  
2022  
(November 23,  
2021)

## Taxable Transactions

Other than sale, the following transactions shall also be subject to DST:

- ✓ Transfer pursuant to a Deed of Donation;
- ✓ Transfer pursuant to a Will of the Decedent as approved by the probate court in a Judicial Settlement of Estate
- ✓ Renunciation/waiver by an heir of his share in the inheritance - transfer of the renounced/waived share in shares of stock

Transfer of shares of stock from the decedent's estate to the heirs thru intestate succession (without a will) is not subject to DST, as ownership is transferred to the heirs via succession by operation of law.

## Treatment of Input Taxes on Purchases of Capital Goods

### References

- ✓ Section 110(A) of the NIRC 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

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)

### Amendment Introduced by TRAIN

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.

## 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.

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**THANK YOU**

