



**TAX LAW FOR BUSINESS**  
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## **On Creditable Input Tax**

With the increased competition among countries in creating better business environment in order to attract investors, a dynamic and responsive taxation system is a major consideration for those seeking investment opportunities. Arguably, our policy on business taxes, notably, the value-added tax (VAT), is one of the most scrutinized of all our tax systems.

One fundamental VAT rule affecting businesses is the input VAT deductibility. Under the 1997 Tax Code, as amended, an input tax may be creditable against output VAT by a registered VAT taxpayer if it is evidenced by a VAT invoice or receipt issued in accordance with the invoicing requirements prescribed by law. A VAT-registered person must issue a VAT invoice for every sale or exchange of goods or properties and a VAT official receipt for lease or sale or exchange of services. Further, the invoice or official receipt must contain the following information:

- (1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);
- (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax, with the additional requirement that:
  - (a) The amount of the tax shall be shown as a separate item in the invoice or receipt;
  - (b) If the sale is exempt from value-added tax, the term 'VAT-exempt sale' shall be written or printed prominently on the invoice or receipt;

- (c) If the sale is subject to zero percent (0%) value-added tax, the term 'zero-rated sale' shall be written or printed prominently on the invoice or receipt;
  - (d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt. The seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.
- (3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and
- (4) In the case of sales in the amount of P1,000 or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and TIN of the purchaser, customer or client.

These rules on creditable input tax should be complied with; otherwise, the input tax credit may be disallowed by the tax authorities.

Strict adherence to these rules, however, may create some problems with investors incurring start-up costs. As the start of a new venture entails the incurrance of preparatory costs and expenses before the formal registration of the company with the BIR for VAT, the question now is: *Are the related input tax from these start-up costs and expenses creditable?*

As discussed, only a VAT-registered taxpayer may claim creditable input tax. As these are indeed unavoidable and legitimate business costs and expenses incurred before a company becomes officially a legal entity, would such company be eventually entitled to claim such VAT as deduction? Several international tax decisions had already been issued for a less restrictive stance on this issue. These preparatory activities, albeit performed primarily for the purpose of setting up an entity, are already considered part of the economic activities. Moreover, it is said that registration is not necessary on the date when activities creating input VAT were carried out. Accordingly, the related input VAT should be allowed as deductions.

However, one problem which may arise from this liberal position on input VAT deductibility is the documentation of such claim. In order to claim creditable input tax, it presupposes that a VAT return has been filed and the claim is indicated therein. As these costs and expenses were incurred prior to the VAT registration of the company, would it be claimed retroactively and reflected on the VAT return to be filed on the month of its registration?

These are some of the complexities that have to be addressed. Although the local tax authorities have yet to take a definitive position on this issue, we cannot deny that this is a valid concern particularly for the would-be investors. Although, the general rule is that tax exemptions and deductions are strictly interpreted and applied against the taxpayers,

one only hopes that this would be an exception. A liberal stance on this issue would somehow show the business community our willingness to adopt a simpler and more responsive VAT system and would somehow give the Philippines an edge among its neighboring countries as a primary business hub in this side of the world.

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