

## ADVISORY ON AMENDMENTS INTRODUCED BY THE EASE OF PAYING TAXES ACT

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BIR REVENUE REGULATIONS NO. 5-2024 Amendments Introduced on Tax Refunds	6

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**AMENDMENTS INTRODUCED BY THE EOPT ACT  
ON TAX REFUNDS**

**I. VAT Refund Claims – Risk-Based Approach**

The risk-based approach to verification and processing of VAT refunds shall be as follows:

Risk Level	Submission of Complete Documentary Requirements	Scope of Verification of Sales	Scope of Verification of Purchases
Low	Yes	No verification	No verification
		Mandatory full verification on the 4 <sup>th</sup> VAT refund claim after 3 consecutive filing of low-risk VAT refund claims	
Medium	Yes	At least: ➤ Amount of sales – 50%; and ➤ Invoices/ receipts including inward remittance and proof of VAT zero-rating – 50%	At least: ➤ Amount of purchases with input tax claimed – 50%; and ➤ Suppliers on "Big-Ticket" purchases – 50%
		Adjusted to 100% if there is at least 30% disallowance of the amount of refund	
High	Yes	100%	100%

- ☑ Specific circumstances with automatic high-risk classifications:
  - First-time claimants for the succeeding 3 VAT refund claims;
  - The succeeding claim following a full denial; and
  - VAT refund claims arising from retirement/cessation of business.
- ☑ Main risk factors in establishing the risk-level of each claim:
  - Amount of VAT refund claim;
  - Frequency of VAT refund claim;
  - Tax compliance history; and
  - Other risk factors that may be identified.
- ☑ For taxpayer-claimants filing on a quarterly basis, the risk classification shall be made for every filing.

## II. *VAT Refund Claims – Processing*

- ☑ Verification and processing of VAT refund claims shall be separate from the regular audit. Findings on the verification that has no effect on the refund shall be:
  - If regular audit is conducted by a different BIR office: Endorsed for further verification and/or consolidation; or
  - If regular audit and refund verification is with the same BIR office: Incorporate with the existing audit.
- ☑ All documentary requirements shall be submitted regardless of the risk-level and shall be subject to post-audit by COA (if the claim is approved).
- ☑ The BIR may utilize sales and/or purchase data available in the E-Invoicing System (EIS).
- ☑ The 90-day period to process the refund shall be from the date of submission of the invoices and other documents in support of the application. The said period shall also cover up to the release of the payment of the VAT refund.

- ☑ Available remedies to taxpayers in case of denial or inaction:

Action/Inaction	Remedy
Full or partial denial	Appeal with the CTA within 30 days from receipt of the decision
Inaction	Appeal with the CTA within 30 days from the expiration of the 90-day period to process the claim  <i>Note: Administrative claim shall be considered moot and shall no longer be processed.</i>
	Forego the judicial remedy and await the decision

- ☑ BIR officials, agents, and employees causing deliberate delay in the processing of the refund may be subjected to penalties.
- ☑ Approved refunds shall be subject to post audit by COA. In case of disallowance by COA:
  - Only the taxpayer shall be liable for the disallowed amount;
  - BIR employee who may be found to be grossly negligent in the grant of the refund may become administratively liable.

### III. Credit/Refund of Unutilized Excess Income Tax Credit – Regular Claims

- ☑ Regular claims refer to refunds by taxpayers that are of "going concern" status. The excess of the amount of tax withheld over the tax due shall be refunded subject to the provisions of Section 204 of the Tax Code.
- ☑ The option to carry-over shall be irrevocable. In case the taxpayer chooses refund/issuance of tax credit but carried forward the said amount, this shall be a ground for denial. However, the amount carried over may be applied against future income tax liabilities.

☑ Requisites in claiming tax credit/refund of unutilized excess income tax:

- Filing must be within 2 years from the date of filing of the AITR;
- Income upon which the taxes were withheld must be included as part of the gross income declared in the AITR;
- Fact of withholding must be established by a copy of the withholding tax certificate showing:
  - Amount of income payment;
  - Amount of tax withheld; and
  - Taxpayer-claimant as the payee.

☑ Processing of the refund shall not be held in abeyance pending completion of the audit for all internal revenue taxes.

#### IV. *Credit/Refund of Unutilized Excess Income Tax Credit – Upon Dissolution/Cessation*

☑ The BIR shall decide on the refund application within 2 years from the date of the dissolution or cessation of business. This is an exception to the 180-day processing of refund claims under Section 204(C) of the Tax Code.

☑ The 2-year period shall commence from the submission of the application (BIR Form 1905) together with the complete documentary requirements for the closure and refund.

☑ The approved refund shall be released only:

- After completion of mandatory audit covering the immediately preceding year and the short period return; and
- Full settlement of all tax liabilities for the closure/cessation of business and any existing prior tax liability.

#### V. *Tax Credit/Refund for Erroneously or Illegally Collected Tax*

☑ No credit/refund shall be allowed unless the taxpayer files a claim in writing. However, a return filed showing an overpayment shall be considered as a written claim for credit/refund.

☑ The 180-day period shall:

- Be counted from the submission of complete documents which should be within the 2-year prescriptive period;
- Cover the time-frame to process and decide up to the payment of the approved refund/receipt of TCC.

☑ Requisites in claiming tax credit/refund:

- Pertains to erroneously or illegally collected taxes or penalties imposed without authority;
- Filing of a claim must be done within 2 years after the payment of tax or penalty;
- Supported with a copy of the duly filed tax return with the corresponding payment remitted to the BIR.

☑ The result of the application, whether approval or denial, shall be communicated to the taxpayer-claimant. In case of full/partial denial, the legal and/or factual basis shall be stated.

☑ The following remedies are available to the taxpayer-claimant:

Action/Inaction	Remedy
Full or partial denial	Appeal with the CTA within 30 days from receipt of the decision
Inaction	Appeal with the CTA within 30 days from the expiration of the 180-day period to process the claim  <i>Note: Administrative claim shall be considered moot and shall no longer be processed.</i>
	Forego the judicial remedy and await the decision

- ☑ BIR officials, agents, and employees causing deliberate delay in the processing of the refund may be subjected to penalties.
- ☑ A validly issued tax credit certificate (TCC) may be applied against any internal revenue tax liability, excluding withholding taxes. Any unutilized TCC may be converted into refund upon request provided that:
  - The original TCC showing a creditable balance is surrendered;
  - The TCC is not a result of avilment of incentives for which no actual payment was made.

## VI. *Judicial Claim for Credit/Refund of Erroneously or Illegally Collected Tax*

- ☑ No suit or proceeding in any court shall be filed/maintained unless there is:
  - A prior claim duly filed with the Commissioner.
  - A full or partial denial of the claim or a failure to act within the 180-day period.
- ☑ A prior claim filed with the Commissioner is required to maintain a suit or proceeding in any court. However, such suit or proceeding may be maintained whether or not such tax, penalty, or sum has been paid under protest or duress.
- ☑ For refund of excess income tax in relation to dissolution/cessation of business, the judicial claim must be made within 30 days from full/partial denial by the Commissioner.

Source:  
BIR Revenue Regulation No. 5-2024