

MCC TAX AND OTHER RELEVANT UPDATES

Period Covered: August 2023



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IMPORTANT UPDATES:

A. REVENUE REGULATIONS		
ISSUANCE	DATE ISSUED	SUBJECT
RR 9-2023	August 3, 2023	Topic: Tax Administration Provides rules and regulations governing the imposition of Excise Tax on perfumes and toilet waters as provided under Section 150(b) of the Tax Code of 1997, as amended
B. REVENUE MEMORANDUM CIRCULARS		
RMC No. 78-2023	August 4, 2023	Topic: Tax Administration Prescribes the administrative requirements for importers and manufacturers of raw materials, apparatus or mechanical contrivances , and equipment specially used for the manufacture of heated tobacco products and vapor products
RMC No. 79-2023	August 8, 2023	Topic: Tax Administration and compliance Announces the availability of BIR Form Nos. 1600-PT, 1600-VT, 1602Q, 1603Q, 2551Q and 2552 in the Electronic Filing and Payment System (eFPS)
RMC No. 80-2023	August 9, 2023	Topic: Tax Administration and incentives Clarifies issues relative to the implementation of Revenue Regulations No. 3-2023 and other related concerns on Value-Added Tax (VAT) zero-rate transactions on local purchases of the Registered Export Enterprises (REEs) and other entities granted with VAT zero-rate incentives under special laws and international agreements
RMC 84-2023	August 15, 2023	Topic: Tax Administration and compliance Announces the availability of the revised BIR Form No. 2200-M (January 2018 ENCS) v2 or the Excise tax return for mineral products.

C. REVENUE MEMORANDUM ORDER

RMO 28-2023

August 10,
2023

Topic: Tax Administration

Amends RMO No. 23-2023 **relative to the issuance of Tax Verification Notices (TVNs) in the processing of claims for Value-Added Tax (VAT) Credit/Refund** except those under the authority and jurisdiction of the Legal Group

DISCUSSION OF UPDATES

A. REVENUE REGULATIONS

REVENUE REGULATIONS 7-2023

REVENUE REGULATIONS NO. 9-2023 issued on August 3, 2023 prescribes the rules and regulations governing the imposition of Excise Tax on perfumes and toilet waters as provided under Section 150(b) of the National Internal Revenue Code (NIRC) of 1997, as amended.

There shall be levied, assessed and collected a tax equivalent to twenty percent (20%) based on the wholesale price, net of Excise and Value-Added Tax (VAT), for locally manufactured perfumes and toilet waters. For imported articles, the Excise Tax of twenty percent (20%) shall be based on the value of importation used by the Bureau of Customs (BOC) in determining tariff and customs duties, net of Excise Tax and VAT.

The Excise Tax shall be paid by the manufacturer or producer of locally manufactured perfumes and toilet waters. Should the said products be removed from the place of production without payment of the Excise Tax, the wholesaler/distributor, retailer, owner or any person having possession thereof shall be liable for the Excise Tax due thereon.

The Excise Taxes on imported perfumes and toilet waters shall be paid by the owner or importer to the BOC, in conformity with the regulations of the Department of Finance (DOF), and before the release of such articles from customs custody, or by the person who is found in possession of articles which are exempt from Excise Taxes other than those legally entitled to exemption.

In cases where tax-free articles are brought or imported into the Philippines by persons, entities, or agencies exempt from tax and are subsequently sold, transferred, or exchanged in the country to non-exempt persons, entities, or agencies, the purchaser or recipient of such goods shall be considered as the importer, and shall be liable for the Excise Tax due on such importation.

All locally purchased imported excisable products illegally removed or released from customs custody or to a non-registered importer/s wherein the Excise Tax has not been declared or paid or found to be untaxed, the possessor, distributor or buyer of such goods shall pay the Excise Taxes with the corresponding interest or penalties.

Unless otherwise specifically allowed, the return shall be filed and the Excise Tax paid by the manufacturer or producer of locally manufactured perfumes and toilet waters before removal of domestic products from place of production using eBIRForms or Form 2200-AN (Automobiles and Non-Essential Goods) via Electronic Filing and Payment System (eFPS), indicating the type of Tax marked as XG.

In case of payment of the tax by any person other than the local manufacturer, the Excise Tax return shall likewise be accomplished and filed by such person indicating all the pertinent information therein.

The Excise Tax due on locally manufactured or produced perfumes and toilet waters shall be paid by the manufacturer or producer before removal from the place of manufacture/production and warehouse. Excise Tax herein imposed and based on selling price or other specified value of goods shall be referred to as "ad valorem tax."

In the event that the brand owner(s) uses or engages in a toll manufacturing or subcontracting service or agreement, to facilitate the production of the excisable products, payment of Excise Tax shall be paid by the brand owner itself who owns the product or formulation before removals from their toll manufacturer's or subcontractor's production premises. In cases where labor or services are provided only by the toll manufacturer or subcontractor, payment of Excise Tax shall be filed and paid by the brand owner before the transfer of articles for bottling.

Relative thereto, unless otherwise provided, a contract and/or service agreement that allows the subcontractor (toll manufacturers) to file and pay the Excise Tax in behalf of the brand owner shall be allowed, provided that the basis for the computation of Excise Tax, net of excise and VAT, shall be determined or computed by the brand owners. Provided, that, all the manufacturers or producers of goods and products subject to Excise Taxes shall file with the Commissioner on the date or dates designated by the latter, and as often as may be required, a "sworn statement" showing among other information, the different goods or products manufactured or produced and their corresponding gross selling price or market value, together with the cost of goods manufactured or produced plus expenses incurred or to be incurred until the goods or products are finally sold.

Except as the Commissioner otherwise permits, the return shall be filed with and the tax paid to a bank duly accredited by the Commissioner under the jurisdiction of the Revenue District Office (RDO) where the person liable for the payment of the tax is registered or required to be registered. In places where there are no duly accredited agent banks within the municipality or city, the Excise Tax return shall be filed with and any amount due paid to the duly authorized collection agent under the jurisdiction of the RDO or duly authorized treasurer of the city or municipality where the manufacturing or production plant is located or where the person in possession of untaxed perfumes and toilet waters is registered or required to be registered.

Large taxpayers duly notified by the Commissioner and other persons or entities who are required to file their tax returns and pay their internal revenue taxes through eFPS shall strictly comply with the existing rules and regulations governing eFPS with respect to the filing of Excise Tax returns and payment of Excise Taxes due on removals of perfumes and toilet waters.

The Excise Tax due on imported perfumes and toilet waters shall be paid by the importer to the BOC or its duly authorized representative prior to the release of such goods from customs custody. In case a person is found in possession of untaxed locally manufactured or imported perfumes and toilet waters, the tax due thereon shall be paid immediately upon demand. This includes or covers any person, natural or juridical directly engaged in the reselling, retailing, marketing, on-line selling and distribution of perfumes and toilet waters.

In cases where denatured alcohol is being used as raw material in the manufacture of perfumes and toilet waters, the manufacturer of perfumes and toilet waters should be registered with the BIR as Buyer or User of Denatured Alcohol. Prior to each and every purchase or delivery of denatured alcohol from any distillery or importer/dealer holding a duly issued Permit to Engage as Dealer of Denatured Alcohol, an application for an authority to denature shall be filed by the distillery with the Excise LT Field Operations Division (ELTFOD) accompanied by a copy of a purchase order or supply agreement with the distiller or importer/dealer, as the case may be.

The said application shall be accompanied with a liquidation report containing the dates and volume received, volume put into production and the remaining balance of inventory covering the previously issued permit.

Receipt, transfer or usage of denatured alcohol shall be used purposely for the manufacture of perfumes and toilet waters and other related perfumed-based products. Accordingly, in case of unauthorized sale, usage or transfer of the denatured alcohol, without the required permits from the Bureau, the corresponding Excise Tax shall be imposed under Section 141 of the NIRC, as amended. Similarly, in cases where pure ethyl alcohol that is "not suitably denatured" is used, the same Code shall apply.

Every person, whether individual or juridical entity, who intends to engage in business as manufacturer, producer, or brand owner availing the services of a toll manufacturer, subcontractor or importer-dealer of perfumes and toilet waters shall file an application in writing for a permit to engage in such business with the Commissioner of Internal Revenue through his duly authorized representative. The application shall be accompanied with copies of the following documents:

- Request Letter (Attention: Chief, Excise LT Regulatory Division)
- Importer's/Manufacturer's Surety Bond (₱100,000.00 - initial coverage)
- BIR Certificate of Registration
- Location Map and Plat and Plan of the Warehouse; and if manufacturer, Blueprint of the production plant
- Latest approved Certificate of Product Registration issued by the Food and Drug Administration (FDA), if required
- Subcontracting/Toll Manufacturing Agreement
- Production process flow charts

The following Permits shall be secured from the Excise LT Regulatory Division (ELTRD):

- A. Local Manufacturers/Producers
 - Permit to Operate as Manufacturer of Non-Essential Goods
 - Permit to Operate as Buyer/User of Ethyl Alcohol and/or Denatured Ethyl Alcohol'
- B. Brand Owners Engaging Toll Manufacturing or Subcontractors'
 - Permit to Operate as Manufacturer of Non-Essential Goods
 - Permit to Operate as Buyer/User of Ethyl Alcohol and/or Denatured Ethyl Alcohol

- Permit to Engage the Services of a Toll Manufacturer/Subcontractor
- C. Importers
- Permit to Operate as Importer of Non-Essential Goods
- D. Toll Manufacturers or Subcontractors
- Permit to Operate as Toll Manufacturer and/or Subcontractors

No person shall engage in business as manufacturer, producer or importer of perfumes and toilet waters unless the premises upon which the business is to be conducted shall have been approved by the Commissioner or his duly authorized representative.

Every manufacturer/producer and importer of perfumes and toilet waters shall, for each and production of plant and warehouse, respectively, be assigned a permanent and official assessment number, distinct for each paragraph under he operates. This assessment number shall be indicated in the Permit to Operate as an Excise taxpayer. No two (2) manufacturers or importers under the same paragraph shall be given the same assessment number. For manufacturers operating more than one manufacturing plant, a separate assessment number shall be assigned for each and every place of production. When a manufacturer retires from business, his assessment number shall be dropped from the roll.

When there is a change in ownership of the production plant by reason of sale, transfer, or otherwise, the Commissioner shall not allow the new owner or transferee thereof to use the old assessment number of his vendor or transferor, even if the right to use said assessment number has been included in the sale or transfer. Such assessment number, when dropped from the roll, shall no longer be allowed to be issued to another production plant or establishment. In case of importers of perfumes and toilet waters for resale, an assessment number shall likewise be issued for each establishment, storage facility or warehouse.

The manufacturer/producer or importer shall file with the Excise LT Regulatory Division (ELTRD) a duly notarized manufacturer's/importer's sworn statement containing a list of all the brands of perfumes and toilet waters and variants, showing the corresponding wholesale price and the suggested retail price for purposes of determining the unit cost or market value of each product manufactured and sold.

The manufacturer shall submit thereafter an updated sworn statement of the brand/s on or before the end of the months of June and December of the year: Provided, however, That whenever there is a change in the cost to manufacture, produce or import and sell the brand or change in the actual selling price of the brand, the updated sworn statement shall be submitted at least five (5) days before the actual removal of the product from the place of production or release from customs custody, as the case may be: Provided, further, That if the manufacturer sells and allows such goods to be sold at wholesale in another establishment of which he is the owner or in the profits of which he has an interest, the gross selling price in such establishment shall constitute the wholesale price. Should such price be less than the said costs and expenses, a proportionate margin of profit of not less than ten percent (10%) thereof shall be added to constitute the wholesale price, pursuant to Section 130(B) of the NIRC.

The sworn statement prescribed herein shall be subject to verification and/or validation by the authorized BIR Revenue Officer(s) from the ELTFOD with respect to its accuracy and completeness. In the event that the contents thereof or prices therein are found to be inaccurate and/or incomplete, the taxpayer shall be required to submit a revised sworn statement, without prejudice to the imposition of corresponding assessment, sanctions and penalties.

The understatement of the suggested net retail price by as much as fifteen percent (15%) of the actual net retail price as determined using the survey price net of Excise and Value Added Taxes declared per manufacturer's/importer's sworn statement, shall render the manufacturer or importer of covered products liable for additional Excise and Value Added Taxes equivalent to the difference between the recomputed (Excise and Value Added) Taxes based on the annual net retail price and the declared Excise and Value-Added Taxes per submitted sworn statement.

For each and every importation of perfumes and toilet waters, primary raw materials, including equipment, apparatus, mechanical contrivances and devices especially used in the production of perfumes and toilet waters, an application for Authority To Release Imported Goods (ATRIG) shall be filed through the National Single Window System and the duly notarized application together with the importation documents shall be submitted to the ELTRD for the processing and issuance of the ATRIG. Application for ATRIG shall be made prior to the release of such articles from customs custody.

No ATRIG shall be issued in case the imported products are already released from customs custody. Likewise, no subsequent application for ATRIG shall be processed unless the importer has submitted proofs of payment of the Excise Tax due on the imported products covered by previously issued ATRIG.

Every removal of locally manufactured/produced perfumes and toilet waters from the place of production/warehouse shall be accompanied with the corresponding Excise Tax Removal Declaration (ETD) [BIR Form No. 2299], or any form to be prescribed by the BIR, which shall be requisitioned from the ELTFOD in the BIR National Office, or from the Excise Tax Area Offices at the respective BIR Revenue Regions having jurisdiction over the concerned manufacturers of perfumes and toilet waters.

Any shipment of perfumes and toilet waters not properly accompanied by the prescribed ETRD and BIR Form 2200-AN duly signed and witnessed by the Revenue Officers on Premise (ROOP), shall be deemed prima facie evidence of illegal removal thereof.

Subject to the provisions of Revenue Regulations No. 3-2008 on product replenishment, all manufacturers of perfumes and toilet waters who intend to export the same shall file an application for a Permit to Export with the ELTFOD before the said products are removed from the place of production.

The Commissioner or his duly authorized representative may assign revenue officer(s) as the need so requires for an effective supervision of the operations of perfume and toilet water manufacturers to monitor the revenue collection. The manufacturer shall provide suitable office space and equipment for the use of the revenue officer(s) assigned thereat, who shall render at least eight (8) hours service daily. Such office

space shall be strategically located in a place that is adjacent to the manufacture and removal areas. It shall be designed in such manner that the assigned revenue officer(s) can have a clear and unobstructed view of the taxpayer's manufacture and removal activities. Should overtime service be required, an advance notification to that effect should be filed with the ELTFOD.

No changes, alterations, or new constructions shall be made in the establishment as per the plat and plan originally approved by the Commissioner or his duly authorized representative, nor alterations of new equipment, transferring or putting up of new equipment, transferring or putting up of new warehouse or storage facilities, or any other form of changes or alterations, shall be made without first securing the necessary permit from the Commissioner or his duly authorized representative. In case any changes shall be made, the plat and plan, as amended, shall be submitted for approval.

Every person or entity engaged in the manufacture or importation of non-essential goods shall keep Official Register Books (ORBs) and such other forms or records that may be required by the Commissioner, which may be kept within the place of production or importer's warehouse and shall at all times be made available for inspection by duly authorized internal revenue officer(s).

The submission of all transcript sheets of ORBs by all manufacturers and importers, including subcontractors, for non-essential goods to the LT Performance Monitoring & Programs Division or the Excise Tax Area having jurisdiction of the place of production shall be on or before the eighth (8th) day of the month immediately following the month of operation.

After every six (6) months, reckoned from the date of the initial or last stocktaking, or at any time the Commissioner may direct, an inventory taking shall be conducted on the finished goods, raw materials and intermediate or in-process products of the manufacturers, importers or wholesale dealers of perfumes and toilet waters in the presence of the representative of the company, who shall jointly attest to the result using a duly notarized Stock Inventory. A spot-checking or verification of the operation of the establishments and the up-to-date maintenance of the prescribed records may be conducted at any time as may be directed by the Commissioner or his duly authorized representative to determine compliance with the existing laws and regulations and/or to ascertain a specific fact or figure.

Any person who is engaged as a subcontractor/toll manufacturer of perfumes and toilet waters or who undertakes any part of the manufacturing process such as packaging, etc., shall secure a Permit to Operate as subcontractor/toll manufacturer from the ELTRD.

In case the subcontractor/toll manufacturer is a newly registered taxpayer for Excise Tax purposes, he/she/it shall be issued an Assessment Number. In case he/she/it is already a registered excise taxpayer, a separate assessment number for this purpose shall no longer be required

In case the primary raw materials are supplied by the manufacturer/ importer/owner of the brand, the same shall be transported directly to and unloaded in the premises of

the subcontractor from the production premises/warehouse of the manufacturer/importer/owner of the brand or from customs custody, in case of importation.

Every delivery of the said basic raw materials shall be accompanied by an ETRD or any form to be prescribed by the BIR duly issued by the authorized taxpayer's representative and attested to by the revenue officer assigned at the manufacturer's/importer's/brand owner's place of production/warehouse. In case of direct delivery from customs custody, the same shall be accompanied by applicable BIR permits, ATRIG, importation documents and proofs of Excise Tax payments.

The dedicated storage areas, storage tank and line of production that are to be used for the purpose shall be clearly identified as depicted in the supporting plant layout. Only the assigned storage area, storage tank and line of production as granted in the permit shall be used during the period of the subcontracting agreement. In case of any change thereof, a prior permit shall be secured from the concerned BIR Office. However, if such change is temporary or emergency in nature such as due to the occurrence of fortuitous events, force majeure, etc., a written notification therefor shall be filed immediately with the BIR, in lieu of the said permit.

In cases where the brand owner and his/her/its toll manufacturers/ subcontractors entered into an agreement to allow the purchase of the primary raw materials, full production and the payment of Excise Tax by the toll manufacturers/subcontractors shall be for the account of the brand owner.

In cases where the concerned BIR Office cannot provide a revenue officer to monitor the operations of the toll manufacturer or subcontractor, an advance production schedule, together with the documents that may be prescribed under the permit, shall be submitted to the ELTFOD prior to every scheduled production run indicating the quantity of the basic raw materials to be used for production, the scheduled date of production/tolling/bottling and the quantity of the finished products that will be produced.

The finished products or results of the subcontracted activity shall be immediately removed from the toll manufacturer's/subcontractor's production premises and shall be directly delivered to the intended customers, as the case may be.

Within fifteen (15) days from the effectivity of the Regulations, all manufacturers and importers of perfumes and toilet waters shall prepare and submit to the Chief, ELTFOD a duly notarized list of inventory of their primary raw materials, perfumes and toilet waters held in their possession as of the effectivity of the Regulations.

B. REVENUE MEMORANDUM CIRCULARS

REVENUE MEMORANDUM CIRCULAR 79-2023

REVENUE MEMORANDUM CIRCULAR NO. 78-2023 issued on August 4, 2023 prescribes the administrative requirements for importers and manufacturers of raw materials, apparatus or mechanical contrivances, and equipment specially used for the manufacture of Heated Tobacco Products (HTPs) and vapor products, to wit:

- a. Application for a Permit to Operate as importer or manufacturer of raw materials, apparatus or mechanical contrivances, and equipment specially used for the manufacture of HTPs and vapor products – to be filed in writing addressed to the Commissioner of Internal Revenue, Attention: Chief, Excise LT Regulatory Division (ELTRD), together with the following basic supporting documents:
 - BIR Certificate of Registration (BIR Form No. 2303), including Payment Form (BIR Form No. 0605) evidencing payment of registration fee;
 - Copy of latest Income Tax Return duly filed with and received by the BIR, if applicable;
 - Location map, and plat and plan of the Production Plant/Warehouse, if applicable; and
 - Specifications (model/serial number) of the apparatus or mechanical contrivance, and equipment, if locally manufactured.
- b. Application with the ELTRD for Electronic Authority to Release Imported Goods (eATRIG) for every importation shall be done using the Philippine National Single Window System (<https://nsw.gov.ph/>). The basic documentary requirements include the following:
 - Bill of lading
 - Packing list
 - Commercial invoice
 - Import Entry and Internal Revenue Declaration

Revenue Memorandum Order No. 14-2014 prescribes the procedures and guidelines for the processing and issuance of eATRIG for Excise Tax purposes.

The raw materials specially used for the manufacture of HTPs and vapor products shall include, but not limited to: propylene glycol, vegetable glycerin, organic sweetener, artificial flavoring and nicotine.

On the other hand, the devices specially used for the manufacture of HTPs and vapor products shall refer to, or comprise, any device or combination of devices designed or used to deliver the desired purpose, function, or effect of HTPs and vapor products. These devices or combinations thereof include, but are not limited to, a mechanical or electronic heating element (or atomizer), circuit, cartridge (or reservoir or pod), tank, mod, cartridge, or mouthpiece.

REVENUE MEMORANDUM CIRCULAR NO. 79-2023

REVENUE MEMORANDUM CIRCULAR NO. 79-2023 issued on August 8, 2023 announces the availability of the following BIR Forms in the Electronic Filing and Payment System (eFPS):

BIR Form Number	Description	Deadline of filing/ Payment
1600-PT	Monthly Remittance Return of Other	On or before the 10th day of the month following the

	Percentage Taxes Withheld	month in which withholding was made.
1600-VT	Monthly Remittance Return of Value Added Tax Withheld	On or before the 10th day of the month following the month in which withholding was made.
1602Q	Quarterly Remittance Return of Final Income Taxes Withheld on Interest Paid on Deposits and Yield on Deposit Substitutes/Trusts/Etc.	Not later than the last day of the month following the close of the quarter during which withholding was made.
1603Q	Quarterly Remittance Return of Final Income Taxes Withheld on Fringe Benefits Paid to Employees Other than Rank and File	Not later than the last day of the month following the close of the quarter during which withholding was made
2551Q	Quarterly Percentage Tax Return	Within 25 days after the end of each taxable quarter.
2552	Percentage Tax Return for Transactions Involving Shares of Stock Listed and Traded the Local Stock Exchange or Through Initial and/or Secondary Public Offering.	<ol style="list-style-type: none"> 1. For tax on sale of shares of stock listed and traded through the Local Stock Exchange (LSE) — within 5 banking days from date of collection 2. For shares of stocks sold or exchanged through primary public offering — within 30 days from date of listing of shares of stock in the LSE; and 3. For tax on shares of stock sold or exchanged through secondary public offering — within 5 banking days from date of collection.

All taxpayers who are mandated to use the eFPS shall file the above-mentioned returns and pay the corresponding taxes due, if any, using the eFPS facility, effective immediately.

REVENUE MEMORANDUM CIRCULAR NO. 80-2023

REVENUE MEMORANDUM CIRCULAR NO. 80-2023 issued on August 9, 2023 clarifies the issues relative to the implementation of Revenue Regulations (RR) No. 3-2023 and other related concerns on Value-Added Tax (VAT) zero-rate transactions on local purchases of the Registered Export Enterprises (REEs) and other entities granted with VAT zero-rate incentives under special laws and international agreements.

RR No. 3-2023 was published in a newspaper of general circulation on April 28, 2023, thus, it took effect on the said date. Upon the effectivity of RR No. 3-2023, the local supplier of goods and/or services of REEs shall no longer be required to secure prior approval for VAT zero-rate with the BIR.

To qualify for VAT zero-rating, the local purchase of the REE must be directly and exclusively used in the registered project or activity, and not included in the negative list provided in RR No. 3-2023. Should the goods and/or services fall within the negative list, the REE is not precluded from further proving, with supporting evidence, to the concerned Investment Promotion Agency (IPA) that such goods and/or services are indeed directly and exclusively used in the registered project or activity. Upon determination that such goods and/or services are directly and exclusively used in the registered project or activity of the REE, a VAT Zero-Rate Certificate shall be issued by the concerned IPAs. This is without prejudice to the BIR's power to conduct post audit.

While it is true that the VAT zero-rating on local purchases of goods and/or services shall be availed of on the basis of VAT Zero-Rate Certification issued by the concerned IPA pursuant to RR No. 3-2023, the REE-buyer must still provide a certified copy of the following documents to its local supplier for the latter's documentation in case of post-audit by the BIR, to wit:

- a. VAT Zero-Rate Certification issued by the concerned IPA;
- b. Certificate of Registration (COR) issued by the BIR having jurisdiction over the head office/branch/freeport/ ecozone location where the goods and/or services are to be delivered;
- c. COR issued by the concerned IPA stating all registered ecozone location; and
- d. A sworn affidavit executed by the REE-buyer, stating that the goods and/or services are directly and exclusively used for the production of goods and/or completion of services to be exported or for utilities and other similar costs, the percentage of allocation be directly and exclusively used for the production of goods and/or completion of services to be exported, following the prescribed format under Revenue Memorandum Circular (RMC) No. 84-2022.

Applications for VAT zero-rate accompanied by VAT Zero-Rate Certificate issued by the concerned IPA, as prescribed in RMC No. 36-2022, which have been received prior to the effectivity of RR No. 3-2023 but have not yet been acted upon by the concerned office of the BIR, shall be accorded VAT zero-rating treatment from the date of filing of such application subject to the conduct of post audit by the BIR that the services are indeed directly and exclusively used by the REE in its registered project or activity.

If the transaction was entitled for purposes of VAT zero-rating, i.e., the goods and/or services sold were directly and exclusively used in the registered project or activity, and the REE is duly endorsed by the concerned IPA, but the seller failed to secure an approved Application for VAT Zero-Rate, such sale shall be subject to twelve percent (12%) VAT.

Application for VAT zero-rate for a particular sale transaction that was previously disapproved will not be considered VAT zero-rate upon the effectivity of RR No. 3-2023 since there was already a prior determination by the BIR that the transaction is not qualified for VAT zero-rate. Accordingly, the same is subject to twelve percent (12%) VAT notwithstanding the issuance of RR No. 3-2023.

BIR-disapproved applications for VAT zero-rate determined to be not qualified for VAT zero-rating purposes, are subject to VAT. Inasmuch as these transactions are subject to VAT, the VAT-registered REE enjoying 5% Gross Income Tax (GIT) or Special Corporate Income Tax (SCIT) may claim the corresponding input VAT from the said purchase, which can be utilized as deduction against future output VAT liability after the incentive period or may be claimed as VAT refund under Section 112(B) of the National Internal Revenue Code of 1997, as amended, in relation to Q & A No. 40 of RMC No. 24-2022.

The following elements must be considered in the evaluation of transaction subject for VAT zero-rating during audit of transactions with REE:

- a. The REE's place of business where the registered project or activity is being processed/rendered must be duly registered with the appropriate BIR office;
- b. The REE must be duly registered with the IPA administering tax incentives;
- c. A VAT Zero-Rate Certificate has been issued by the IPA to the REE;
- d. The transaction occurred within the period the REE is entitled to VAT zero-rate incentives and is corroborated with a valid documentation, such as but not limited to duly certified copies of purchase order, job order or service agreement, sales invoice and/or official receipt, delivery receipt, or similar documents to prove existence and legitimacy of the transaction;
- e. The purchased goods and/or services must be delivered within the REE's registered head office/branch/freeport/ecozone/location granted with VAT zero-rate incentives; and
- f. The transaction is indeed qualified for VAT zero-rating in accordance with the provisions of the Tax Code, and its implementing rules and regulations, revenue issuances.

Since the application for VAT zero-rate is no longer required upon effectivity of RR No. 3-2023, the supplier should identify the goods and/or services being sold that are directly and exclusively attributable to the registered project or activity of the REE by enumerating them in Section III, Annex "A" of the prescribed template for VAT Zero-Rate Certification per RMC No. 36-2022. The aforementioned goods and/or services must likewise be declared in the REE's sworn undertaking

The VAT zero-rating shall not extend to Health Maintenance Organization (HMO) plans procured for employees' dependents, as well as HMO plans for employees not

directly involved in the operations of the registered projects or activities of the REEs. Accordingly, only those HMO plans acquired for employees directly involved in the operation of REE's registered project or activities and forming part of their compensation package shall be accorded with VAT zero-rating

For audit investigation/verification purposes, the supplier of HMO plans must still require the REE-buyer to provide a detailed information on the acquired HMO plans as prescribed in Annex "A" of RMC No. 137-2022 and maintain a database of the same, for ease of reference.

The submission of application for VAT zero-rate of the local suppliers of other entities granted with VAT zero-rate incentives under special laws and international agreements shall not be required. Alternatively, such local suppliers of goods and/or services shall require from the aforementioned entities the documentary requirements enumerated below:

A. For the Supplier of Renewable Energy (RE) Developer

The local suppliers of goods, properties, and services shall require from the duly registered RE Developer a certified copy of the following documents:

- COR issued by the BIR which has jurisdiction over the location of the RE Project;
- COR issued by the Board of Investments (BOI); and
- COR issued by the Department of Energy (DOE).

It is emphasized that the VAT zero-rating shall apply only on the sale of goods, properties, and services, for the development, construction and installation of the RE Developer's power plant facilities. This includes the whole process of exploring and developing renewable energy sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contactors.

B. For the Supplier of Other Entities Under Special Law and International Agreements

The buyer must provide its local supplier a certified copy of VAT Exemption Certificate/Ruling or equivalent document, issued by the appropriate office of the BIR and other documentary requirements as may be required under the special law and international agreement, including its implementing rules and regulations.

The following elements must be considered in the evaluation of transaction subject for VAT zero-rate:

- a. The location of the registered project of the entity granted with VAT zero-rate incentives under special law must be duly registered with the appropriate BIR office;
- b. The entity granted with VAT zero-rate incentives under special law must be duly registered with other government agency (OGA) administering tax incentives;
- c. The entity granted with VAT zero-rate incentives under special law or international agreement must have been issued by its concerned OGA

administering Tax Incentives a VAT Exemption Certificate/BIR Ruling/equivalent certificate; and

- d. The transaction is indeed qualified for VAT zero-rating in accordance with the provisions of the Tax Code, and its implementing rules and regulations, revenue issuances, special laws or international agreements; and is likewise corroborated with a valid documentation, such as but not limited to duly certified copies of purchase order, job order or service agreement, sales invoice and/or official receipt, delivery receipt, or similar documents to prove existence and legitimacy of the transaction;

The template for VAT Zero-Rate Certificate to be issued by the concerned IPA to its compliant REEs is prescribed under RMC No. 36-2022 and attached as Annexes "B-1" and "B-2" of the Circular, for registered under Corporate Recovery and Tax Incentives for Enterprises (CREATE) and Pre-CREATE, respectively.

The template for VAT Zero-Rate endorsement of IPAs, which contains basic information needed in the audit investigation/verification by the concerned investigating office of the BIR, is attached as Annex "C" of the Circular and shall be submitted to the BIR through the Assessment Service, Attention: Audit Information, Tax Exemption and Incentives Division (AITEID), in softcopy (excel file format), via email address: aiteid_ies@bir.gov.ph, within twenty (20) days following the close of each taxable quarter.

REVENUE MEMORANDUM CIRCULAR NO. 84-2023

REVENUE MEMORANDUM CIRCULAR NO. 84-2023 issued on August 15, 2023 announces the availability of the revised BIR Form No. 2200-M [Excise Tax Return for Mineral Products] January 2018 (ENCS) v2. It was revised due to some changes in the column headers of Schedule 1 - Summary of Removals and Excise Tax Due on Mineral Products Chargeable Against Payment.

The revised BIR Form No. 2200-M is already available for download in the BIR website (www.bir.gov.ph) under the BIR Forms-Excise Tax Return Section. However, the Form is not yet available in the Electronic Filing and Payment System (eFPS) and Electronic Bureau of Internal Revenue Forms (eBIRForms). Thus, eFPS/eBIRForms filers shall continue to use the BIR Form No. 2200-M [October 2002 (ENCS)] in the eFPS and in Offline eBIRForms Package v7.9.4 in filing and paying the Excise Tax due.

Manual filers shall download the PDF version of the revised BIR Form No. 2200-M and fill-out all the applicable fields; otherwise penalties under Section 250 of the Tax Code, as amended, shall be imposed. Payment of the tax due thereon, if any, shall be made thru:

- a. Online Payment
 - Landbank of the Philippines (LBP) Link.BizPortal – for taxpayers who have LANDBANK/OFBank ATM account and taxpayer utilizing PCHC Paygate or PESONet Facility (depositors of RCBC, Robinsons Bank, Union Bank, BPI, PSBank and Asia United Bank); or
 - Development Bank of the Philippines' (DBP PayTax Online) – for holders of VISA/MasterCard Credit Card and/or BancNet ATM/Debit card; or

- Union Bank of the Philippines (UBP) Online/The Portal – for taxpayers who have an account with UBP or Instapay using UPAY Facility for individual nonaccount holder of Union Bank
 - Tax Software Provider (TSP) - GCash, Maya, MyEG
- b. Manual Payment
- In any Authorized Agent Bank (AAB) located within the territorial jurisdiction of the Large Taxpayers Office/Division (LTD)/Revenue District Office (RDO) where the taxpayer (Head Office of the business establishment) is registered; or
 - In places where there are no AABs, the return shall be filed and the tax due shall be paid through the concerned Revenue Collection Officer (RCO) under the jurisdiction of the RDO where the taxpayer (Head Office of the business establishment) is registered regardless of the cash and check amount. However, for payment through RCOs in areas with AABs, cash payment should not exceed Twenty Thousand Pesos (₱ 20,000.00).

C. REVENUE MEMORANDUM ORDERS

REVENUE MEMORANDUM ORDER NO. 28-2023 issued on August 10, 2023 amends certain provisions of Revenue Memorandum Order (RMO) No. 23-2023 to align existing policies in the issuance of Tax Verification Notices (TVNs) in the processing of claims for Value-Added Tax (VAT) credit/refund, except those under the authority and jurisdiction of the Legal Group.

The following Items under RMO No. 28-2023 are hereby amended as follows:

Item 8 under “General Policies” –

“8. Tax Verification Notice (TVN) shall be issued by the herein indicated Revenue Officials to authorize the verification of VAT credit/refund claims filed under Sections 112, 204 (C) and 229 of the Tax Code, as amended.

Processing Office	Revenue Official
Revenue District Office (RDO)	Revenue District Officer
VAT Audit Section (VATAS)	Assistant Regional Director
VAT Credit Audit Division (VCAD)	Division Chief
Large Taxpayer VAT Unit (LTVATAU)	Assistant Commissioner, LTS

Item 1(c) under “Procedures”

“c. The Revenue Officials identified under item I.8 of this Order shall issue a TVN to authorize the verification of VAT credit/refund.”

Item 1 of Annex C.3 –

“1. The Revenue officials identified under I.8 of this Order shall issue a Tax Verification Notice (TVN) to authorize the verification of VAT credit/refund”

*****Nothing Follows*****