

MCC TAX AND OTHER RELEVANT UPDATES

Period Covered: February 2023



The matters in this edition are intended for general information only and cannot be substituted in any way for a legal opinion. Morfe, Ceneta & Co., CPAs, its partners, employees or assigns if any hereby hold themselves free and harmless from any damages arising out or in connection with one's reliance on the information we have shared in this publication.

IMPORTANT UPDATES:

A. REVENUE MEMORANDUM CIRCULAR		
ISSUANCE	DATE ISSUED	SUBJECT
RMO No. 6-2023	February 9, 2023	Prescribes the updated and consolidated policies, guidelines and procedures for BIR Audit Program.
B. REVENUE MEMORANDUM CIRCULAR		
RMC No. 15-2023	February 3, 2023	Publishes the full text of Memorandum Circular No. 2023-001 by the Board of Investments (BOI)
RMC No. 17-2023	February 6, 2023	Publishes the full text of FIRB Advisory No. 002-2023 – Templates for the Certificate of Entitlement to Tax Incentives (CETI)
RMC No. 18-2023	February 6, 2023	Publishes the full text of FIRB Administrative Order No. 001-2023 prescribing the supplemental guidelines to operationalize FIRB Resolution No. 026-22, as further extended by FIRB Resolution No. 033-22
RMC 23-2023	February 17, 2023	Amends RMC No. 48-2018 on the classification and processing time of One-Time Transactions
RMC 24-2023	February 17, 2023	Further clarifies the qualifications of Ecozone Logistics Service Enterprise (ELSE) to the incentives of VAT-Zero Rate on local purchases of goods and services exclusively and directly used in the registered project or activity
C. REVENUE MEMORANDUM ORDER		
RMO 7-2023	February 23, 2023	Prescribes the policies, guidelines and procedures in the processing and monitoring of One- Time Transactions (ONETT) and issuance of Electronic Certificate Authorizing Registration thru the eONETT System
D. COURT OF TAX APPEALS		
CTA EB 2531	February 1, 2023	Assessment of Compromise Penalty

DISCUSSION OF UPDATES

A. REVENUE MEMORANDUM ORDER

REVENUE MEMORANDUM ORDER NO. 6-2023

REVENUE MEMORANDUM ORDER NO. 6-2023 issued on February 9, 2023 prescribes the updated and consolidated policies, guidelines and procedures for BIR Audit Program.

In general, all taxpayers are considered as possible candidates for audit. To cover such audit/investigation, electronic Letters of Authority (eLAs) or Tax Verification Notice (TVN), as applicable shall be issued.

Mandatory Cases are transactions to which an audit is required as a condition precedent for the issuance of Tax Clearance, processing of claims for tax credit/refund and other cases as may identified by the Commissioner of Internal Revenue (CIR) as priority target for audit/investigation. The following shall be covered by this type of audit:

A. To be covered by ELAs

Claims for tax credit/refund of the following tax types: i. Excise Tax; or ii. Income Tax (except Income Tax claims of Job Order personnel), including Final and Creditable Income Tax withheld	ETRS for Excise Tax and ITR for Income Tax and Withholding Tax
Request for Tax Clearance of taxpayers whose gross sales/receipts for the immediately preceding year exceeds Three Million Pesos (₱ 3,000,000.00) or whose gross assets upon retirement exceeds Eight Million Pesos (₱ 8,000,000.00) i. Due to death of taxpayer; or ii. Taxpayers retiring from business; or iii. Taxpayers undergoing merger/ consolidation/split-up/spin-off and other types of corporate reorganizations	TRC
Cases returned to the Investigating Offices (IO) where the original Group Supervisor (GS)/ Revenue Officer (RO)	CRIO

<p>who conducted the audit are no longer available due to transfer of work assignment or separation from service (e.g., retirement, resignation, AWOL, etc.)</p> <p>i. For reinvestigation; or</p> <p>ii. For compliance of review findings which resulted to deficiency tax or additional deficiency tax</p>	
Cases referred by other IO due to taxpayer's transfer of business registration, where taxpayer agreed to have the audit continued by the new IO, provided the covered period is not yet prescribing.	TOR
<p>One-Time Transactions (ONETT)</p> <p>i. Cases which review findings resulted to a deficiency tax; or</p> <p>ii. Real property transactions with findings in the Electronic Certificate Authorizing Registration (eCAR) System</p>	OTT
Policy cases/industry issues under the directive of the Commissioner	MCIR

B. To be covered by TVNs

- a. Persons requesting for Tax Clearance whose gross sales for the immediately preceding year is One Million Pesos (₱ 1,000,000.00) but not exceeding Three Million Pesos (₱ 3,000,000.00) or whose total assets upon retirement is Three Million Pesos (₱ 3,000,000.00) but not exceeding Eight Million Pesos (₱ 8,000,000.00)
 - i. Due to death of the taxpayer; or
 - ii. Taxpayers retiring from business; or
 - iii. Taxpayers undergoing merger/consolidation/split-up/spin-off and other types of corporate re-organization.
- b. Claims for Value Added Tax (VAT) Refund;
- c. Income Tax Refund of Job-Order personnel; and
- d. Claims for refund/tax credit arising from erroneous payment of taxes, including double payment of taxes due to system error/glitch.

Priority Audit Cases are cases which have been electronically selected by the IRIS-Audit Module based on prescribed selection criteria pursuant to identified risks that need immediate action. The prescribed selection criteria shall make use of information from filed tax returns and other pertinent tax information available in the BIR Systems and the selection code for these are already embedded into the said module.

Also covered under this category are audit cases that shall be handled by the VAT Audit Section (VATAS) and Office Audit Section (OAS) of the Assessment Divisions (AD), and Large Taxpayers VAT Audit Unit (LTVAU) under the Large Taxpayers Service (LTS). The execution of the “Run Audit Program” in the IRIS-Audit module, including the submission of the list of taxpayers to be audited, shall be the responsibility of the Assistant Commissioner of the Assessment Service (ACIR-AS) and ACIR-LTS for non-large taxpayers and large taxpayers, respectively.

Priority audit case can also be manually selected by the concerned Regional Director (RD)/ACIR-LTS but this has to be approved by the CIR. The selection code for these cases shall be “PCIR”.

The Policies and Procedures on i) Issuance of eLA/TVN; ii) Assignment of Cases; iii) Conduct of Audit and Submission of Reports of Investigation; iv) Review of Audit Reports and Issuance of Termination Letter; v) Handling of Protests Against Tax Assessments; vi) Monitoring of Cases; vii) Issuance of Replacement eLA; and viii) Administrative Sanctions are specified in the Order.

B. REVENUE MEMORANDUM ORDER

REVENUE MEMORANDUM ORDER NO. 7-2023

REVENUE MEMORANDUM ORDER NO. 7-2023 issued on February 23, 2023 prescribes the policies, guidelines and procedures in the processing and monitoring of One-Time Transactions (ONETT) and issuance of Electronic Certificate Authorizing Registration (eCAR) thru the eONETT System.

The facilities of the eONETT System shall be used in the processing, review and approval of online applications, as well as generation and printing/ issuance of eCAR. The existing procedures and guidelines in requesting for systems access shall be followed by the users in acquiring access to the eONETT System. All concerned Revenue District Offices shall identify users and prepare request for access to the eONETT System through the Revenue Data Center (RDC).

The Assessment Performance Monitoring Division (APMD), Data Warehousing and Systems Operations Division (DWSOD), Taxpayer Service Systems Division (TSSD), Security Management Division (SMD) and RDC shall be jointly responsible in: i) monitoring the activities of the users in utilizing the system; and ii) assisting the concerned District Offices in the proper implementation of the eONETT System.

The SMD, DWSOD and RDC shall be jointly responsible in the processing of system access request of concerned BIR users based on the Security Access Matrix (SAM). All issues encountered in using the eONETT System shall be immediately logged to the BIR Service Desk:

Issue/Concern From	Problem Resolution Group
Taxpayer/s	Customer Assistance Division (CAD)
Revenue District Officer/s:	
- For technical related issues	Concerned RDC/TSSD
- For policy/business related issues	APMD

The updated schedule of zonal valuation shall be provided by APMD to TSSD every time there is a revision. TSSD shall submit migration requests to the DWSOD to effect the updates/changes in the eONETT System.

The validation/verification of the Taxpayer Identification Number (TIN) and other pertinent registration information provided by the taxpayers shall be done thru the Internal Revenue Integrated System-Taxpayer Registration System (IRIS-TRS).

Only those applications with complete documentary requirements shall be processed by the Revenue Officer (RO)/Group Supervisor. In the event that the application which was already submitted by the RO/GS to the Revenue District Officer (RDO)/Asst. Revenue District Officer (ARDO)/Chief, Assessment Section (CAS) for approval has error or correction, the approving official shall return the application to the same RO/GS by using the "RETURN TO RO/GS FOR RE-EVALUATION" facility and inform the RO/GS of the said error/correction by leaving a comment in the application. The RO/GS shall make the necessary correction that needs to be acted upon then re-submit the application for approval or, if the application must be returned to the taxpayer for compliance, he/she may do so by using the "RETURN TO TAXPAYER" facility, indicating the reason for return.

In the absence of the RO/GS who processed and submitted an application for approval, another RO/GS may print and release the eCAR to the taxpayer, provided that the physical copies of original documents presented by the taxpayer have been validated against the uploaded attachments in the system.

The existing procedures in the verification of payment made thru Authorized Agent Banks pursuant to Revenue Memorandum Order Nos. 22-2016 and 56-2018 shall be followed, whereas, verification of electronic payments shall be done following the procedures stated in Operations Memorandum Nos. 68- 2021 and 39-2022, by the Collection Section in validating/checking the proof of payments uploaded by the taxpayers.

If the payment validation resulted to a deficiency tax, the taxpayer shall be advised by the RO/GS of the Assessment Section of the said deficiency using the "Return to Taxpayer for Compliance" facility of the system and will be required to settle the deficiency tax as approved by the RDO/ARDO/CAS. Only the RDO/ARDO/CAS are authorized to edit/modify applications that are already approved.

For transactions involving multiple properties (multiple TCT/OCT/CCT, or improvements) the following shall be considered:

- a. If Single Selling Price – Ensure that the “Multiple Selling Price” is unchecked/unmarked, then encode the amount in the Total Selling Price field.
- b. If Multiple Selling Price – Tick/mark the checkbox in the Multiple Selling Price field then encode the amount of selling price of each property/improvement, whichever is applicable.

The RDO, ARDO or CAS may re-assign pending applications lodged in the system by clicking the “RE-ASSIGN TO ANOTHER RO/GS” button, provided that the same are not yet submitted for approval. The names of the RO/GS who submitted the application for approval shall be reflected in the ONETT Computation Sheet (OCS)/eCAR printout.

The re-issuance and re-printing facility of the eONETT System shall only be used for eCARs that are generated and issued thru the said System. In case of lost eCAR issued thru the eONETT System within the validity period, the concerned RDO shall reprint and issue the same to the requesting taxpayer. A certification fee in the amount of One Hundred Pesos (₱ 100.00) and affixture of Thirty Pesos (₱30.00) Documentary Stamp Tax on Certificates shall be required for each reprinted eCAR.

The procedures in the processing, approval of applications, and issuance of eCAR, and reprinting/re-issuance of eCAR issued through the eONETT System are specified in the Order.

C. REVENUE MEMORANDUM CIRCULAR

REVENUE MEMORANDUM CIRCULAR NO. 15-2023

REVENUE MEMORANDUM CIRCULAR NO. 15-2023 issued on February 3, 2023 publishes the full text of Memorandum Circular No. 2023-001 issued by the Board of Investments (BOI) through Board Resolution Number 02-01, Series of 2023, for the clarification on the coverage of logistic services as "Activities in Support to Exporters" under the 2022 Strategic Investment Priority Plan (SIPP)

The Board Resolution No. 02-01, issued the following clarifications on the coverage of logistic services as one of the activities in support of exporters under the 2022 SIPP pursuant to Sec. 300 of the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act, and Sections 2 and 3 of Rule 4 of its Implementing Rules and Regulations (IRR), which provides that the BOI shall formulate the SIPP and its corresponding guidelines:

Based on the definition of export enterprises under Sec. 293. (E) of the CREATE Act, the listing in the SIPP for logistic services as one of the activities in support of exporters shall cover the Ecozone Logistics Service Enterprises or ELSEs type 3 or “combination of both”, as follows:

- a. establishment of a warehouse storage facility; and
- b. importation or procurement from local sources and/or from other Philippine Economic Zone Authority (PEZA) registered enterprises of goods for resale, or for packing/covering (including marking, labelling), cutting or altering to customers' specification, mounting and/or packaging into kits or marketable lots thereof for subsequent sale, transfer or disposition for export;

Further, such integrated ELSEs shall be considered as export enterprises; Provided, that they render at least 70% of their output/ services to another registered export enterprise.

Full text of the BOI Memorandum is available here: [RMC No. 15-2023 Attachment.pdf \(bir.gov.ph\)](#)

REVENUE MEMORANDUM CIRCULAR NO. 17-2023

REVENUE MEMORANDUM CIRCULAR NO. 17-2023 issued on February 6, 2023 publishes Fiscal Incentives Review Board (FIRB) Advisory No. 002-2023 on the availability of the templates for the Certificate of Entitlement to Tax Incentives (CETI) covering the following types of projects:

Classification of Projects	Annex	Updates	Link
Projects registered under Republic Act (RA) No. 11534 or the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act ("CREATE Projects")	A	No Change	RMC No. 17-2023 Attachment Annexes.pdf (bir.gov.ph)
Projects registered prior to the effectivity of the CREATE Act ("Pre-CREATE Projects")	B	Minor changes (in red font)	RMC No. 17-2023 Attachment Annexes.pdf (bir.gov.ph)
Projects registered under RA No. 9513 or the Renewable Energy Act of 2008 ("Renewable Energy Projects")	C	Minor changes (in red font)	RMC No. 17-2023 Attachment Annexes.pdf (bir.gov.ph)

All Investment Promotion Agencies (IPAs) are mandated to use the updated templates beginning March 1, 2023. However, earlier adoption of the amended templates is highly encouraged.

All CETIs already issued on or before February 28, 2023 using the previous templates circulated last March 23, 2022, shall remain valid for the corresponding fiscal or calendar year, unless canceled, suspended, or withdrawn by the IPA or the FIRB, after due process.

REVENUE MEMORANDUM CIRCULAR NO. 18-2023

REVENUE MEMORANDUM CIRCULAR NO. 18-2023 issued on February 6, 2023 publishes the full text of Fiscal Incentives Review Board (FIRB) Administrative Order No. 001-2023 prescribing the supplemental guidelines to facilitate and allow a seamless and orderly operationalization of registration of existing Registered Business Enterprises (RBEs) in the Information Technology — Business Process Management (IT-BPM) sector with the Board of Investments (BOI) for purposes of adopting up to 100% work-from-home (WFH) arrangements as prescribed under FIRB Resolution No. 026-22, DTI MC No. 22-19 and FIRB Resolution No. 033-22.

The registration with BOI pursuant to FIRB Resolution Nos. 026-22 and 033-22 shall only be available to the following RBEs in the IT-BPM sector:

- a. Those availing of the Transitory Provisions under Section 311 of the National Internal Revenue Code (NIRC) of 1997, as amended by the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act; or,
- b. Those registered and with approved incentives under the CREATE Act on or before September 14, 2022.

RBEs in the IT-BPM sector shall have until January 31, 2023 to exercise the option to register with the BOI. For this purpose, they shall file their request with the concerned Investment Promotion Agencies (IPAs) using the prescribed Request to Register with BOI Form (Annex A of DTI MC No. 22-19). The registration with BOI shall be on a per project or activity basis and not per enterprise.

IT-BPM RBEs that are eligible to register with BOI under (a) and (b) above but have decided not to exercise their option by January 31, 2023, and all RBEs registered with the concerned IPAs starting September 15, 2022 onwards shall not be allowed to register with BOI under FIRB Resolution Nos. 026-22 and 033-22 and shall be covered by Section 309 of the NIRC of 1997, as amended.

RBEs of the IT-BPM sector, as used herein, refer only to those providing services in line with the transitional Strategic Investment Priority Plan (SIPP).

The RBEs registered with the BOI pursuant to FIRB Resolution Nos. 026-22 and 033-22 and DTI MC No. 22-19 (hereinafter referred to as "covered RBEs") shall be allowed to adopt up to 100% WFH arrangements without adversely affecting the enjoyment of their fiscal and non-fiscal incentives upon issuance of the BOI Certificate of Registration (BOI-COR) on the date indicated therein.

The covered RBEs shall be allowed to avail of all their remaining fiscal and non-fiscal incentives, and the registration with BOI shall not adversely affect their existing fiscal and non-fiscal incentives.

The BOI shall issue a separate COR for each registered project or activity duly endorsed by the concerned IPA upon payment of the applicable fee, provided that the covered RBE may already adopt 100% WFH arrangement from the date indicated in the Official Receipt representing the payment of the applicable fee in the amount of ₱ 2,250.00, pending the issuance of the BOI-COR. The BOI-COR shall state, among

others, the registered project or activity of the covered RBE, the remaining fiscal incentives, and all necessary information as required in Rule 7, Section 2 of the CREATE Act Implementing Rules and Regulations (IRR), as amended. In addition, and for ease of cross-referencing, the BOI-COR shall include an annotation stating, among others, the following:

- A. Reference to FIRB Resolution No. 026-22, as extended under FIRB Resolution No. 033-22;
- B. Registration number of the COR issued by the concerned IPA and date of its issuance;
- C. The date of registration of the RBE with BOI, which shall be the date indicated in the Official Receipt of payment of the applicable fee amounting to ₱ 2,250.00; and
- D. The unique control number indicated in the original COR issued by the concerned IPA, if applicable.

The covered RBE must, likewise, submit to the concerned IPA the original COR issued by the said concerned IPA for annotation of the abovementioned information. The covered RBE must comply with the terms and conditions of both CORs to avail of both its fiscal and non-fiscal incentives.

The IPAs, BIR and Bureau of Customs (BOC) shall use and refer to the (1) BOI-COR as the basis for the entitlement to the remaining fiscal incentives of the covered RBE as indicated therein and (2) original COR issued by the concerned IPA as the basis for the entitlement to non-fiscal incentives as stated therein and its corresponding Terms and Conditions or Registration Agreement and/or Supplemental Agreement.

Covered RBEs that have been issued a BOI-COR shall apply for a Certificate of Entitlement to Tax Incentives (CETI) before filing their Income Tax Return (ITR) with the concerned IPA in accordance with Rule 8 of the CREATE Act IRR, as amended.

Once the concerned IPA has verified the covered RBE's entitlement to tax incentives, it shall issue the CETI in favor of the covered RBE. The CETI shall then be attached to the ITR of the RBE for purposes of filing with the BIR. The CETI issued by the concerned IPA shall be considered valid and sufficient proof of compliance with the terms and conditions indicated in the BOI-COR and the RBE's entitlement to tax incentives.

As the Certificate of Authority to Import (CAI) is yet to be fully implemented, existing control procedures, existing process flows, and the documentary requirements of the IPAs and the BOC shall be observed.

The CAI issued by the concerned IPA shall be valid and be considered by the BIR and BOC as proof of entitlement to tax and/or duty-free importation, notwithstanding the BOICOR. The CAI, or the related admission permit or import permit, or any other equivalent document issued by the concerned IPA while the CAI is still being rolled-out, shall be used for importations.

For existing capital equipment and other assets that are used in the registered project or activity of the covered RBE, which were imported on or before January 31, 2023,

these shall be covered by a Tax Exemption Indorsement (TEI) issued by the Department of Finance's Revenue Office (DOF-RO). The step-by-step guidance in securing the TEI from the DOF-RO is provided in Annex A of the Order.

The Value-Added Tax (VAT) zero-rating certification shall be applied with the concerned IPA following BIR Revenue Memorandum Circular (RMC) No. 36-2022. For counterchecking purposes, the BIR shall rely on the master list and VAT zero rate indorsement of covered RBEs, which the concerned IPA shall submit to BIR.

All general and specific terms and conditions imposed upon the registration of the project and availment of incentives must, nevertheless, be complied with by the covered RBE, with the exception of exclusively conducting or operating the registered project or activity within the geographical boundaries of the economic zone or freeport zone being administered by the concerned IPA.

All certifications for the availment of incentives provided in the BOI-COR that the concerned IPA will issue shall contain the following annotation:

"This [CETI/CAI/VAT 0% certification] is issued pursuant to FIRB Resolution No. 026-22, as extended under FIRB Resolution No. 033-22, in relation to Board of Investments (BOI) Certificate of Registration No. TR-xxx dated xxx for purposes of allowing this registered project or activity to adopt up to 100% WFH arrangement and [concerned IPA] COR No. dated xxx as part of [concerned IPA] authority to monitor the compliance with the terms and conditions and administer the availment of remaining incentives of the aforementioned RBE."

The monitoring of the covered RBEs' compliance with the terms and conditions of their registration, reportorial requirements, and other compliance requirements under the CREATE Act and its IRR, as amended, and other applicable laws, rules, and regulations shall remain with the concerned IPA. The concerned IPA shall continue to submit regularly, or when requested, the following reports:

- a. Master list of all RBEs;
- b. Monitoring of performance commitments for approved project/s with investment capital of ₱ 1,000,000,000.00 or below;
- c. Monitoring of performance commitments for approved project/s with investment capital of more than ₱ 1,000,000,000.00;
- d. Consolidated Annual Tax Incentives Report (ATIR) and Annual Benefits Report (ABR); and
- e. Other reports that may be required by the FIRB Secretariat, pursuant to FIRB Resolution No. 022-22.

Findings and results gathered by the concerned IPA, if any, in the performance of its monitoring functions shall be endorsed by the concerned IPA to BOI. BOI shall forward the aforementioned reports to the FIRB, BIR, BOC, FIRB Secretariat, and other relevant government agencies, as applicable. For this purpose, the BOI-issued COR number shall be used as a common identifier for all covered RBEs

Covered RBEs currently availing of the 5% tax on Gross Income Earned (GIE) or the Special Corporate Income Tax (SCIT) incentive, in lieu of all national and local taxes, shall be allowed to avail of the same continuously.

Existing rules on the allocation of the 5% SCIT among the National Government, Local Government Units (LGUs), and the IPAs under special laws governing the latter shall be observed.

For covered RBEs governed by special laws, which do not provide an allocation, the 5% GIE or SCIT based on the gross income shall be paid and remitted as follows:

- a. Three percent (3%) to the National Government, to be remitted to the BIR using the electronic system for filing and payment of taxes; and
- b. Two percent (2%) to be directly remitted by the covered RBE to the treasurer's office of the municipality or city where the covered RBE is located.

No part of the GIE or SCIT shall be remitted to the LGU where an employee under a WFH arrangement is located unless the LGU where an employee under a WFH arrangement is located is the same as that where the covered RBE is located.

As proof of entitlement to import VAT and/or customs duties exemption and to facilitate the free movement of capital equipment and other assets within and outside the economic zones and freeport zones, the covered RBE shall secure a TEI from the DOF-RO. The step-by-step guidance in securing the TEI for new importations is provided in Annex A.

Existing goods will be covered by a blanket TEI per project, covering existing goods that were imported as of January 31, 2023. While for importations starting February 1, 2023, these shall be processed per project per shipment.

Once the TEI has been secured for existing equipment and other assets, no bond requirement, in whatever form, shall be imposed for the transfer or movement of equipment and other assets, such as laptops, desktops, and other equipment, outside the economic zones or freeport zones. Provided, that the number of equipment of the covered RBE outside the economic zone or freeport zone shall not exceed the number of its employees under a WFH arrangement. Upon approval of the concerned IPA, additional laptops/other equipment may be allowed if reasonably needed to perform the registered project or activity.

For new capital equipment and other assets that will be imported per project starting February 1, 2023, such assets must be covered by a TEI, as issued by the DOF-RO. The step-by-step guidance in securing the TEI for new importations is provided in Annex A.

Provided, further, that the covered RBE shall, within thirty (30) days from the issuance of BOI-COR, submit a report to the concerned IPA containing the following:

- a. List of all equipment and other assets permanently situated inside the economic or freeport zones, and those assets brought out of the economic or freeport

- zones, including the quantity of laptops, desktops, furniture and fixtures, and other assets, whether local or imported;
- b. Acquisition cost, book value, and year of acquisition of the equipment and/or other assets; and
 - c. Total number of employees and number of employees under WFH arrangement

Provided below are the timelines and the supporting documents that will authorize the free movement of goods of covered RBEs within and outside the economic zones and/or freeport zones:

Date of importation of capital equipment and other assets	Applicability of the TEI	Covered period	Surety bond requirement	Documentary proof of authority to move the goods while TEI is still pending
Imported on or before January 31, 2023 (i.e., assets deemed as “existing”)	TEI must be secured for all imported goods that availed of VAT exemption and/or customs duty exemption. The TEI pertaining to existing goods will be secured	January 1, 2023 to January 31, 2023	No requirement (bond-free transition period)	BOI-COR or BOI Official Receipt (<i>only if available</i>) and the provisional goods declaration, together with the notarized undertaking, in lieu of posting any type of bond.

Date of importation of capital equipment and other assets	Applicability of the TEI	Covered period	Surety bond requirement	Documentary proof of authority to move the goods while TEI is still pending
	on a per project basis .	February 1, 2023 to March 31, 2023		BOI-COR or BOI Official Receipt and the provisional goods declaration, together with the notarized undertaking, in lieu of posting any type of bond.
		April 1, 2023 onwards	Surety bond is needed as the transition period has already lapsed.	BOI-COR or BOI Official Receipt and duly filed and approved surety bond. The subject goods can be released through a provisional goods declaration, subject to the BOC's existing rules and regulations.
Imported as of February 1, 2023 (i.e., assets deemed as "new")	TEI must be secured for all imported goods that availed of VAT exemption and/or customs duty exemption. The TEI pertaining to new goods will be secured on a per shipment per project basis .	February 1, 2023 onwards	No requirement (i.e., goods shall remain with the concerned BOC Office and shall not be released while the TEI is still pending)	No alternative document. The duly processed TEI, Statement of Settlement of Duties and Taxes (SSDT) and consumption entry are all required prior to the release of the goods.

In essence, all imported goods of the covered RBE that were granted exemptions covering import VAT and/or customs duties will all be covered by a duly processed TEI, statement of settlement of duties and taxes, and duly processed consumption entry.

For purposes of determining the bondable amount, the amount of customs duties and/or VAT shall be based on the net book value of imported assets that have availed of the corresponding exemption on customs duties and/or VAT. If the net book value is zero, the valuation methods under Section H will take precedence.

With regard to the movement of locally purchased capital equipment and other assets that were subjected to VAT zero-rating, the IPA-issued VAT zero-rating certificate should suffice as proof of its VAT incentive, in accordance with existing BIR rules and regulations.

However, the sale, transfer, donation, and disposal of locally purchased assets shall be governed by Section H of this Administrative Order.

The remaining period of fiscal and non-fiscal incentives of covered RBEs shall be availed from the concerned IPA. After the expiration of the fiscal incentives, the covered RBE shall not be allowed to register anew the same project or activity to avail of fiscal incentives unless there is a new project or activity or a qualified expansion project under the SIPP.

Upon completion of registration of projects or activities with the BOI, the BOI shall submit to the BIR, BOC, and FIRB Secretariat a master list of all covered RBEs per IPA. The master list shall include the following information:

- a. RBE details
 - Control number;
 - Date of filing the request to register with BOI
 - Enterprise name;
 - Office address;
 - Tax Identification Number (TIN);
 - BIR RDO code;
 - Ownership details;
 - Contact details of an authorized representative to the IPA, including the: name, position/designation, telephone or mobile number, and email address; and
 - TIN of the authorized representative.
- b. IPA registration details
 - IPA registration number;
 - IPA registration date (DD/MM/YYYY)
 - Registered activity;
 - Registered capacity;
 - Type of project (indicate if new or expansion);
 - Market orientation (export or domestic);
 - Export requirement, if applicable;
 - Five (5) digit Philippine Standard Industrial Classification (PSIC) code and description based on the 2019 PSIC;
 - Project/plant address, which shall include the: economic zone, building name, unit no., street no., barangay, city/municipality, province, region;
 - Project cost (in Philippine Pesos); and
 - Approved start of commercial operations (DD/MM/YYYY).
- c. Remaining fiscal incentives details
 - The start and end date (DD/MM/YYYY) of the following:
 - Income tax holiday;
 - 5% tax on gross income earned incentive;
 - Duty exemption;
 - VAT exemption;
 - VAT zero-rating; and
 - Other remarks.

Employees under WFH arrangements shall not be made liable to pay Local Business Taxes, Mayor's or Business Permit Fees, and Occupational Permit Fees by the LGU

where they render service in a WFH arrangement pursuant to Department of Finance Local Finance Circular No. 001-2022 or the Guidelines on the Imposition of Local Business Tax, Fees, and Charges to Service Contractors.

Sale or transfer of equipment and other assets made to other non-privileged persons or entities shall be subject to the payment of duties and/or taxes based on the following:

- a. Net book value; or
- b. Depreciated value using the straight-line depreciation method, with depreciation capped at 10% per year, but in no case shall it exceed 90%. Effectively, this assumes that the related equipment and other assets have a residual value of 10%, once fully depreciated.

The value to be used shall be whichever is higher between A and B. Transfer of equipment and other assets by way of donation to non-privileged persons or entities shall be subject to the payment of duties and/or taxes based on the following:

- a. Net book value; or
- b. Depreciated value using the straight-line depreciation method, with depreciation capped at 10% per year, but in no case shall it exceed 90%. Effectively, this assumes that the related equipment and other assets have a residual value of 10%, once fully depreciated.

The value to be used shall be whichever is higher between A and B.

If the asset shall be destroyed or incinerated, the reference values per BOC Memorandum dated April 7, 2017, numbered 2017-04-012, shall be used for the BOC's valuation.

In all three cases above, the imposition of customs duties and/or import VAT shall be applied to all imported goods, which have been initially exempted from customs duties and/or VAT, per original importation.

For locally purchased assets, which were initially brought into the economic zone or freeport by availing of VAT zero-rating, the related VAT shall be imposed upon its sale, transfer, donation, or disposal.

The receiving BOC Office shall check the completeness of the documentary requirements. The Office shall only be allowed to process and approve applications with sufficient supporting documents. In case of insufficient supporting documents, import VAT and/or customs duties shall be assessed, as applicable.

Beginning January 1, 2023, only covered RBEs that have successfully registered with the BOI on or before January 31, 2023, as evidenced by the BOI-COR or the BOI Official Receipt representing the applicable fee, shall be allowed to implement 100% WFH from January 1 to 31, 2023. Notably, RBEs who did not register with the BOI shall not be allowed to implement any WFH arrangement starting January 1, 2023

REVENUE MEMORANDUM CIRCULAR NO. 23-2023

REVENUE MEMORANDUM CIRCULAR NO. 23-2023 issued on February 17, 2023 amends the provisions of Revenue Memorandum Circular No. 48-2018 on the classification of One-Time Transactions (ONETT) and its corresponding processing time for the issuance of ONETT Computation Sheet (OCS) and Electronic Certificate Authorizing Registration (eCAR), in order to align with the Citizen's Charter 2023 Edition, to wit:

ONETT Transactions	Classification	Total Processing Time per BIR Citizen's Charter 2022 Edition
Sale of Real Property / Shares of Stocks Processing and Issuance		
a. OCS	Complex	7 working days
b. eCAR	Complex	7 working days
Donation of Properties Processing and Issuance		
a. OCS	Complex	7 working days
b. eCAR	Complex	7 working days
Estate of the Decedent Processing and Issuance		
a. OCS	Highly Technical	20 working days
b. eCAR	Complex	7 working days

The total processing time specified above is computed on a per application basis. The procedures in the issuance of OCS and eCAR stated in the Citizen's Charter 2023 Edition shall still be followed.

REVENUE MEMORANDUM CIRCULAR NO. 24-2023

REVENUE MEMORANDUM CIRCULAR NO. 24-2023 issued on February 17, 2023 further clarifies the qualifications of Ecozone Logistics Service Enterprise (ELSE) to the incentives of VAT-Zero Rate on local purchases of goods and services exclusively and directly used in the registered project or activity.

ELSE is a Registered Business Enterprise (RBE) supplying production-related raw materials and equipment that caters exclusively to the requirements of export manufacturing enterprises which are registered with the Philippine Economic Zone Authority (PEZA), Clark Development Corporation (CDC), Subic Bay Metropolitan Authority (SBMA), Authority of the Freeport Area of Bataan (AFAB) or other special economic zones/freeports outside the administration of PEZA. It provides critical support, particularly to export manufacturing companies with their requirements for logistics support to facilitate their import and export shipments, sourcing of raw materials, inventory management, just-in-time deliveries, localization, and process customization.

ELSEs that render at least 70% of their output/services to another RBE are covered by the definition of "export enterprise" under Section 293(E) of the National Internal Revenue Code (NIRC) of 1997, as amended by the CREATE Act and as clarified in Board of Investment (BOI) Memorandum Circular (MC) No. 2023-001.

The definition of an RBE under Section 293(M) of the NIRC of 1997, as amended, excludes certain service enterprises, such as those engaged in trucking or forwarding services. Moreover, BOI MC No. 2023-001 provided the only type of logistic service that will qualify to be registered as ELSE are those undertaking BOTH of the following:

- a. Establishment of a warehouse storage facility; and
- b. Importation or procurement from local sources and/or from other registered enterprises of goods for resale, or for packing/covering (including marking, labeling), cutting or altering to customers' specification, mounting and/or packaging into kits or marketable lots thereof for subsequent sale, transfer or disposition for export.

Purchases of registered ELSEs from VAT-registered suppliers are subject to VAT at zero-rate but shall only apply to goods and/or services directly and exclusively used in the registered project or activity of the ELSE. Details on the availment of VAT zero-rate incentives on local purchases under the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act are provided in Revenue Memorandum Circular (RMC) No. 24-2022 and its subsequent amendments.

The processing of applications for VAT zero-rating shall be governed by Revenue Memorandum Order (RMO) No. 7-2006 and its subsequent amendments, if any. However, provisions of Sections 294(E) and 295(D), Title XIII of the NIRC of 1997, as amended by the CREATE Act, and Rule 2, Section 5 and Rule 18, Section 5 of the CREATE Act Implementing Rules and Regulations, as amended, shall be strictly complied with. Relative hereto, the following must be included in the attachments to the application for VAT zero-rating:

- A. Certificate of Registration and VAT Certification issued by the concerned Investment Promotion Agency (IPA) as submitted to it by its registered export enterprise buyers;
- B. A sworn affidavit executed by the registered export enterprise-buyer stating that the goods and/or services bought 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 to directly and exclusively used for the production of goods and/or completion of services to be exported; and
- C. Other documents to corroborate entitlement to VAT zero-rating, such as but not limited to duly certified copies of the valid purchase order, job order or service agreement, sales invoices and/or official receipts, delivery receipts, or similar documents to prove the existence and legitimacy of the transaction

C. COURT OF TAX APPEALS

COMMISSIONER OF INTERNAL REVENUE v. HENRYVILLE, INC.

CTA EB No. 2531, February 1, 2023, Del Rosario, PJ.

On March 20, 2014, petitioner received a copy of Mission Order No. 00096203 ordering Revenue Officers Mayrose Vega, Madonna Bognot, Corazon Devardo, Lino Felix Balayan and Group Supervisor Roland Zamora to (1) apprehend violators of revenue laws and regulations; and (2) to check petitioner's compliance on new invoicing requirements, validation of permit to use cash register machines (CRM)/ point of sales (POS) verification of registration and bookkeeping requirements.

After conducting the examination and validation, respondent issued BIR Form No. 0605, directing petitioner to pay penalties in the total amount of P11,250,000.00.

The same has been paid on May 30, 2014. Subsequently, the Petitioner filed on May 3, 2016 an administrative request for refund and to preserve its right to judicially claim for refund, it filed a Petition for Review on May 27, 2016.

Respondent contends that the Petitioner failed to strictly observe the requirements of RMO 19-2007 with regard to the computation of compromise penalty imposed upon the former.

Petitioner insists that under RMO No. 19-2007, the imposition of compromise penalty, in an amount other than that specified in RMO 19-2007, is valid when the same has been approved by the Regional Director.

ISSUE

Whether or not the Court in Division erred in ruling that the Petitioner failed to strictly comply with the requirements of RMO No. 19-2007.

RULING

No. The Court was correct. RMO No. 19-2007 could not be any clearer in mandating that all amounts of compromise penalties incident to violations must be itemized in a separate assessment notice/demand letter. In the present case, a careful scrutiny of the records show that petitioner did not issue any separate assessment notice/demand letter after his investigation of respondent's alleged violations. Instead, petitioner immediately proceeded to issue BIR Form No. 0605 (Payment Form) with no itemized amounts of compromise penalties relative to its violations.

Nothing Follows