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TRAIN Series Part 3: Amendments to VAT and Percentage Tax Regulations

Following the coming into force of the Tax Reform for Acceleration and Inclusion (“TRAIN”) Act on 1 January 2018, the Bureau of Internal Revenue (“BIR”) has been issuing revenue regulations to implement the TRAIN Act. On 15 March 2018, the Commissioner of Internal Revenue issued Revenue Regulations (“RR”) No. 13-2018 to implement the provisions of the TRAIN on value-added tax (“VAT”) and percentage tax to further amend RR No. 16-2005.

For the key highlights of RR No. 13-2018, please see below.

1. Zero rated VAT treatment for international shipping or air transport operations

RR No. 13-2018 now clarifies that persons engaged in international shipping or international air transport operations, including leases of property for use thereof may enjoy VAT zero rated treatment provided the sale of goods, supplies, equipment, fuel or services are used exclusively for international shipping or air transport operations.

2. VAT refund system enhanced

Upon the establishment and implementation of an enhanced VAT refund system, the VAT zero-rating privilege for indirect exports of goods or services will be eliminated.

VAT refund applications filed with the BIR beyond 1 January 2018 should be settled within 90 days from the filing of such administrative application together with the official receipts or invoices and other supporting documents, instead of the previous 120-day period. This also means that such applications filed prior to 1 January 2018 shall be governed by the 120-day processing period. However, RR No. 13-2018 does not clarify when the supporting documents accompanying the application will be deemed complete by the BIR.

3. Additions made to the list of VAT-exempt transactions

The following items have been added to the list of VAT-exempt transactions:

- Sale or lease of goods or properties or performance of services by non-VAT registered persons other than the transactions mentioned in the regulations, the gross annual sales and/or receipts do not exceed the amount of PHP3,000,000 (previously PHP1,919,500). Importation of professional instruments, tools of trade, occupation or employment, wearing apparel, domestic animals, and personal and household effects belonging to overseas Filipinos settling in the Philippines, in quantities and of the class suitable to the profession, rank or position of the importer, for their own use. The Bureau of Customs may, upon the production of satisfactory evidence that such persons are actually coming to settle in the Philippines and that the goods are brought from their former place of abode, exempt such goods from payment of duties and taxes. Previously, this would have been the subject of a confirmatory BIR ruling to treat these importations as duty-free under customs laws.

- Lease of a residential unit with a monthly rental not exceeding PHP15,000 (previously P10,000). Nevertheless, if monthly rental exceeds PHP15,000, but the aggregate rentals of the lessor during the year do not exceed PHP3,000,000, such lease is still VAT-exempt but subject to a 3% percentage tax.
- Transport of passengers by international carriers.
- Importation of fuel, goods and supplies by persons engaged in international shipping or air transport operations, provided that the fuel, goods and supplies shall be exclusively used for international shipping or air transport operations.
- Services of banks, non-bank financial intermediaries performing quasi-banking functions, and other non-bank financial intermediaries such as money changers and pawnshops that are subject to percentage tax.
- Sale or lease of goods and services to senior citizens and persons with disabilities, in accordance with the qualifications provided in the law.
- Tax-free exchange of properties pursuant to Section 40(C)(2) of the 1997 Tax Code, as amended, wherein no gain or loss is recognized. Previously, this matter needed to be threshed out in a BIR ruling which confirms the tax-free exchange of properties under Section 40(C)(2)).
- Association dues, membership fees, and other assessments and charges collected on a purely reimbursement basis by homeowners' associations and condominium corporations. Previously, Revenue Memorandum Circular No. 65-2012 subjected these charges to 12% VAT).
- Sale of gold to the Bangko Sentral ng Pilipinas ("BSP") (previously zero-rated); and
- Sale of drugs and medicines prescribed for diabetes, high cholesterol, and hypertension beginning 1 January 2019, as determined by the Department of Health.

4. **Change of rules for claims for input VAT**

From 31 December 2021, RR No. 13-2018 will also change the rules with respect to claims for input VAT on depreciable goods. Currently, input VAT attributable to purchases of capital goods at a price above PHP1,000,000 is required to be evenly spread out for a 60-month period. After 31 December 2021, the input VAT has to be claimed outright as a credit from output VAT on the month of purchase, but taxpayers with unutilized input VAT on capital goods shall be allowed to apply the same as scheduled until fully utilized, in accordance with RR No. 13-2018.

5. **New timeframe for filing of VAT returns and payments**

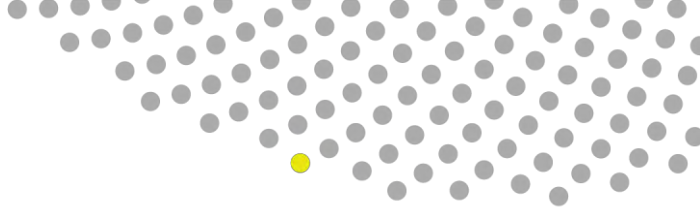
With respect to the filing of VAT returns and payments, beginning 1 January 2023, the filing and payment shall be done within 25 days following the close of each taxable quarter.

6. **New system for withholding of VAT**

Rules on withholding of VAT by the government also underwent some changes, wherein beginning 1 January 2021, such VAT withholding system shall shift from a final to a creditable system.

7. **Continuation of 0% VAT for sales of goods and services to PEZA-registered enterprises**

RR No. 13-2018 does not impose additional requirements for the zero-rating of sales to PEZA-registered enterprises by VAT-registered suppliers. Therefore, sales of goods and services to PEZA-registered entities shall continue to be subject to 0% VAT. In other words, until a contrary law or regulation is issued, the "status quo" on PEZA-registered enterprises remains and the latter may conduct business as usual. However, in a conference organized by the Tax Management Association of the Philippines ("TMAP"), BIR Deputy Commissioner-Legal Marissa



Cabrerros, mentioned that availment of the 0% VAT rate for sale of goods and services to PEZA-registered entities may require suppliers of said goods and services to comply with requirements of the BIR Audit Information, Tax Exemption & Incentives Division (“AITEID”). In recent years, the BIR AITEID has required the filing by suppliers to PEZA entities of an “Application Form for VAT Zero Rate”, pursuant to RR No. 16-2005 and Sections 106 and 108 of the 1997 Tax Code, as amended. In practice, during the course of audit, BIR examiners can impose 12% VAT on an otherwise VAT zero-rated transaction by a supplier to a PEZA entity if said supplier is unable to present proof of compliance with the AITEID requirement.

If you have any questions or require any additional information, please contact [Felix Sy](#) or [Lorybeth Baldrias Serrano](#) or the ZICO Law partner you usually deal with.

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