



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
CENTRAL OFFICE
Manila

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05-06-2021

05 MAY 2021

DEPARTMENT MEMORANDUM)

CIRCULAR NO.)

29)

Series of 2021)

May 5/6/2021

**FOR / TO : Undersecretaries
Assistant Secretaries
Service Directors
Bureau Directors
Regional Directors
Heads of UPMOs
District Engineers
This Department**

For information and guidance, attached is a copy of BIR Revenue Regulation 4-2021 dated April 8, 2021 with subject **"Implementing the Provisions on Value-Added Tax(VAT) and Percentage Tax Under Republic Act (RA) No. 11534, Otherwise Known as the "Corporate Recovery and Tax Incentives for Enterprises Act" (CREATE) Which Further Amended the National Internal Revenue Code of 1997, as Amended, as Implemented by Revenue Regulations (RR) No. 16-2005 (Consolidated Value-Added Tax Regulations of 2005), as Amended"**.

A copy of said BIR Revenue Regulation may also be downloaded from the **DPWH website: <http://dpwhweb>**. If an office cannot access the DPWH website, a hard copy may be obtained from the Records Management Division, HRAS upon request.

For dissemination to all concerned.

MARICHU A. PALAFOX, CESO III
Assistant Secretary for Support Services

Encl: BIR Revenue Regulations No. 4-2021 dated April 8, 2021
Cc: Office of the Secretary



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Date: 08 APR 2021

REVENUE REGULATIONS NO. 4-2021

SUBJECT : Implementing the Provisions on Value-Added Tax (VAT) and Percentage Tax Under Republic Act (RA) No. 11534, Otherwise Known as the "Corporate Recovery and Tax Incentives for Enterprises Act" (CREATE) Which Further Amended the National Internal Revenue Code of 1997, as Amended, as Implemented by Revenue Regulations (RR) No. 16-2005 (Consolidated Value-Added Tax Regulations of 2005), as Amended.

TO : All Internal Revenue Officials, Employees and Others Concerned

SECTION 1. SCOPE. – Pursuant to the provisions of Sections 244 and 245 of the National Internal Revenue Code of 1997 (Tax Code), as amended, in relation to Secs. 12 and 13 of R.A. No. 11534 or CREATE Act, and in compliance with Section 21 thereof, these Regulations are issued to implement the amendments introduced to the VAT and percentage tax provisions of the Tax Code, as amended.

SECTION 2. AMENDMENTS. – Pursuant to the provisions of CREATE amending Sections 109 and 116 of the Tax Code, as amended, Sections 4.109-1, and 4.116-1 of RR No. 16-2005, as amended, shall now be read as follows:

"SEC. 4.109-1. VAT-Exempt Transactions. –

xxx xxx xxx

(B) Exempt transactions. –

xxx xxx xxx

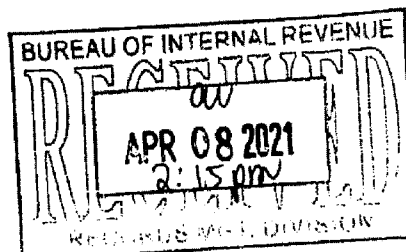
(p) The following sales of real properties are exempt from VAT, namely:

xxx xxx xxx

(4) Sale of residential lot valued at One Million Five Hundred Thousand Pesos (P1,500,000.00) and below, or house & lot and other residential dwellings valued at Two Million Five Hundred Thousand Pesos (P2,500,000.00) and below, as adjusted in 2011 using the 2010 Consumer Price Index values.

xxx xxx xxx

Provided, That beginning January 1, 2021, the VAT exemption shall only apply to sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business; sale of real property utilized for socialized housing as defined by Republic Act (RA) No. 7279, as amended; and, sale of house and lot, and other residential



dwellings with selling price of not more than Two Million Pesos (P2,000,000.00), as adjusted in 2011 using the 2010 Consumer Price Index values: *Provided, further*, That every three (3) years thereafter, the amounts stated herein shall be adjusted to its present value using the Consumer Price Index as published by the Philippine Statistics Authority (PSA).

XXX

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(r) Sale, importation, printing or publication of books, and any newspaper, magazine, journal, review bulletin, or any such educational reading material covered by the United Nations Educational, Scientific and Cultural Organization (UNESCO) Agreement on the importation of educational, scientific and cultural materials, including the digital or electronic format thereof. *Provided*, That the materials enumerated herein are not devoted principally to the publication of paid advertisements. *Provided further*, That the materials enumerated herein are compliant with the requirements set forth by the National Book Development Board pursuant to R.A. No. 8047.

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(aa) Sale or importation of prescription drugs and medicines for:

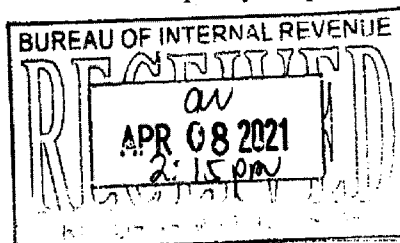
- (i) Diabetes, high cholesterol, and hypertension beginning January 1, 2020; and
- (ii) Cancer, mental illness, tuberculosis, and kidney diseases beginning January 1, 2021.

The exemption from VAT under this subsection shall only apply to the sale or importation by the manufacturers, distributors, wholesalers and retailer of drugs and medicines included in the "list of approved drugs and medicines" issued by the Department of Health (DOH) for this purpose.

(bb) Sale or importation of the following beginning January 1, 2021 to December 31, 2023:

- (i) Capital equipment, its spare parts and raw materials, necessary for the production of personal protective equipment (PPE) components such as coveralls, gown, surgical cap, surgical mask, n-95 mask, scrub suits, goggles and face shield, double or surgical gloves, dedicated shoes, and shoe covers, for COVID-19 prevention;
- (ii) All drugs, vaccines and medical devices specifically prescribed and directly used for the treatment of COVID-19; and
- (iii) Drugs for the treatment of COVID-19 approved by the Food and Drug Administration (FDA) for use in clinical trials, including raw materials directly necessary for the production of such drugs.

Provided, That the Department of Trade and Industry (DTI) shall certify that such equipment, spare parts or raw materials for importation are not locally available or insufficient in quantity, or not in accordance with the quality or specification required.



Provided further, That for item (ii), within sixty (60) days from the effectivity of the CREATE, and every three (3) months thereafter, the Department of Health (DOH) shall issue a list of prescription drugs and medical devices covered by this provision.

Provided finally, That for items (i) and (iii) hereof, on the sale or importation of equipment, spare parts and raw materials for the production of PPE components as well as the sale or importation of raw materials directly necessary for the production of drugs for the treatment of COVID-19, the supplier/s or importer shall submit, for the purpose of availing the exemption, the following:

- (1) Certified true copy of "License to Operate", issued to the manufacturer-buyer by the DOH-FDA authorizing the manufacture of medical grade PPE components and drugs for the treatment of COVID-19; and
- (2) "Sworn Declaration" from the manufacturer-buyer that the items shall be used for the manufacture of the PPE components and drugs for the treatment of COVID-19.

The exemption claimed under this subsection shall be subject to post audit by the Bureau of Internal Revenue (BIR) or the Bureau of Customs (BOC), as may be applicable.

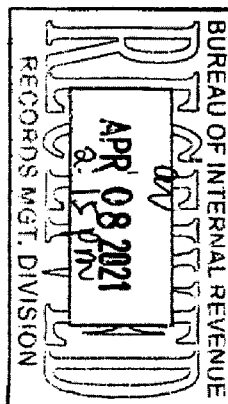
ILLUSTRATION

JRAC Corp. is a VAT-registered entity and a holder of License to Operate issued by FDA to manufacture medical-grade PPE components such as coveralls, gown, surgical cap, surgical mask, n-95 mask, scrub suits, goggles and face shield, double or surgical gloves, dedicated shoes, and shoe covers, for COVID-19 prevention.

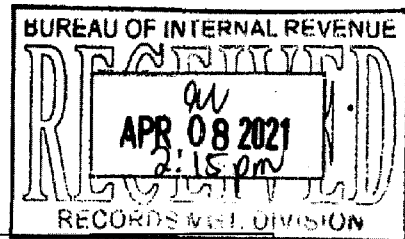
During the period of April to June 2021, the company had the following transactions:

Importation of raw materials (not locally available)	P 2,000,000.00
Importation of capital equipment	P 25,000,000.00
Importation of raw materials (locally available)	P 1,000,000.00
Sale or transfer of raw materials to an affiliated company which is also a holder of License to Operate issued by the FDA	P 500,000.00

The above transactions shall be treated for VAT purposes as follows:



Transaction	VAT Treatment	Explanation
Importation of raw materials (not locally available or insufficient in quantity)	Exempt	Imported item is not locally available
Importation of capital equipment	Exempt	Importation of capital equipment for use in production of PPEs is VAT-exempt
Importation of raw materials (locally available)	Subject to VAT	Subject since the imported item is locally available
Sale or transfer of raw materials to an affiliated	Exempt	Sale of PPE raw materials



company which is also a holder of License to Operate issued by the FDA		is exempt from VAT
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(cc) Sale or lease of goods or properties or the performance of services other than the transactions mentioned in the preceding paragraphs, the gross annual sales and/or receipts do not exceed the amount of **Three Million Pesos (P3,000,000.00)**.

For purposes of these Regulations, the P3,000,000.00 gross annual sales shall comprise of the business' total revenues from sales of its products, which are either goods or services, including non-refundable advance deposits/payments for services, net of discounts, sales returns and allowances, covering the calendar or fiscal year. Sales incidental to the registered operations of the business shall also be included pursuant to Section 105 of the Tax Code, as amended.

xxx xxx xxx"

SEC.4-116. Tax on Persons Exempt from VAT. —

Any person whose sales or receipts are exempt under Section 109(1)(CC) of the Tax Code from the payment of VAT and who is not a VAT-registered person shall pay a tax equivalent to three percent (3%) of his gross quarterly sales or receipts: Provided, however, that the following shall be exempt from the payment of three percent (3%) percentage tax:

1. Cooperatives: and
2. Self-employed individuals and professionals availing of the 8% tax on gross sales and/or receipts and other non-operating income, under Sections 24(A)(2)(b) and 24(A)(2)(c)(2)(a) of the Tax Code.

Provided, further, that effective July 1, 2020 until June 30, 2023, the rate shall be one percent (1%).

xxx xxx xxx"

SECTION 3. TRANSITORY PROVISIONS.

1. A VAT-registered taxpayer who opted to register as non-VAT as a result of the additional VAT-exempt provisions under Sections 109(1)(R), 109(1)(AA), and 109(1)(BB) of the Tax Code, as amended by CREATE Act and provided that it did not meet the threshold set under Section 109(1)(CC) thereof, shall:

- a. Submit an inventory list of unused invoices and/or receipts as of the date of filing of application for update of registration from VAT to Non-VAT, indicating the number of booklets and its corresponding serial numbers; and
- b. Surrender the said invoices and/or receipts for cancellation.

A number of unused invoices/receipts, as determined by the taxpayer with the approval of the appropriate BIR Office, may be allowed for use, provided the phrase "Non-

VAT registered as of (date of filing an application for update of registration) Not valid for claim of input tax." shall be stamped on the face of every copy thereof, until new registered non-VAT invoices or receipts have been received by the taxpayer or until August 31, 2021. Upon receipt of newly-printed registered non-VAT invoices or receipts, the taxpayer shall submit immediately a new inventory list of, and surrender for cancellation, all unused previously-stamped invoices/receipts."

2. The taxpayer shall treat the resulting excess taxes paid due to the inclusion in the items exempt from VAT or adjustment in percentage tax rates, as the case may be, in the following manner:

- a. Unutilized VAT paid on local purchases and importation under subsections 4.109-1(B)(aa)(ii) and 4.109-1(B)(bb) hereof from their specified effectivity under R.A. No. 11534 on January 1, 2021 until the effectivity of these Regulations may be carried-over to the succeeding taxable quarter/s or be charged as part of cost, pursuant to Section 110 of the Tax Code.

Input VAT which are directly attributable to goods now classified as VAT-exempt may be allowed as part of cost. For input VAT that cannot be attributed to goods now classified as VAT-exempt, only a ratable portion thereof shall be charged to cost.

ILLUSTRATIONS:

Assumption 1. No additional Purchases for the period

MMC Pharmaceutical Corp. is an exclusive distributor of a certain brand of prescription drugs for cancer and several other drugs in the Philippines. For the period January to March 2021, the said company had the following:

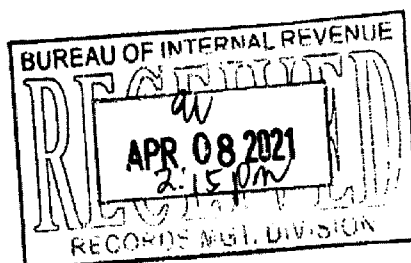
Inventory of cancer drugs as of December 31, 2020	₱200,000,000.00
Sale for cancer medicines (goods from previous inventory)	₱200,000,000.00
Total sales for the period	₱500,000,000.00
Percentage of sale of cancer medicines to total sales for the period	40%

All input taxes from the existing inventory of cancer drugs have been utilized as of December 31, 2020.

Assuming that MMC Pharmaceutical Corp. incurred ₱20,000,000.00 of input tax for the period from purchases of medicines other than those prescribed for cancer and no additional purchases of prescription drugs for cancer was purchased during the period. The VAT payable shall be computed as follows:

Sales subject to VAT	₱ 300,000,000.00
Multiply by: VAT Rate	12%
Output tax for the period	₱ 36,000,000.00
Deduct: Input tax for the period	20,000,000.00
VAT Payable	₱ 16,000,000.00

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Assumption 2. Option to charge to cost the input VAT directly identifiable to now VAT-exempt goods

VTG Pharmaceutical Corp. incurred ₱20,000,000.00 of input tax for the period from purchases of medicines other than those prescribed for cancer and no additional purchases of prescription drugs for cancer was purchased during the period. There was an unutilized input tax of ₱10,000,000.00 coming from the inventory of cancer drugs from previous period that **was carried-over to the succeeding quarter** and 50% of the inventory of cancer drugs was sold during the period. The VAT payable shall be computed as follows:

Sales subject to VAT		₱ 300,000,000.00
Multiply by: VAT Rate		12%
Output tax for the period		<u>₱ 36,000,000.00</u>
Deduct: Input tax for the period		
Input tax carried over from		
previous period (cancer drug)	₱10,000,000.00	
Input tax from current purchases	20,000,000.00	
(non-cancer drug)		
Total input taxes	<u>₱30,000,000.00</u>	
Deduct: Input tax identifiable to		
exempt sales (50% of inventory)	5,000,000.00	25,000,000.00
VAT Payable		<u>₱ 11,000,000.00</u>

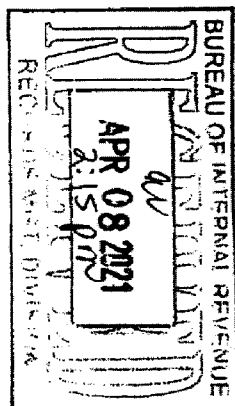
Note: the ₱5,000,000.00 directly identifiable to exempt sales shall be charged to cost

Assumption 3. Option to charge as part of cost a ratable portion of the input VAT not directly identifiable to goods now classified as VAT-exempt

JBA Pharmaceutical Corp. sold drugs for cancer which were part of the Corp's previous and current purchases. Total sales for the period is ₱500,000,000.00, fifty percent (50%) of which is VAT-exempt. The Corp. also incurred ₱20,000,000.00 of input tax for the period from purchases of medicines including those prescribed for cancer. There was an unutilized input tax of ₱10,000,000.00 coming from the previous period but cannot be attributed to the inventory of drugs for cancer. The VAT payable shall be computed as follows:

Sales subject to VAT		₱ 250,000,000.00
Multiply by: VAT Rate		12%
Output tax for the period		<u>₱ 30,000,000.00</u>
Deduct: Input tax for the period		
Input tax carried over from	₱ 10,000,000.00	
previous period		
Input tax from current purchases	20,000,000.00	
Total available input taxes	<u>₱ 30,000,000.00</u>	
Deduct: Input tax ratable to		
exempt sales (50% of total sales)	15,000,000.00	15,000,000.00
VAT Payable		<u>₱ 15,000,000.00</u>

Note: the ₱15,000,000.00 allocated to exempt sales shall be charged to cost.



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- b. Excess percentage tax payments as a result of the decrease of tax rate from 3% to 1% starting July 1, 2020 until the effectivity of these Regulations may be carried forward to the succeeding taxable quarter/s by reflecting the excess percentage tax payment under Line 17 of the Quarterly Percentage Tax Return (BIR Form No. 2551Q), "Other Tax Credit/Payment", specifying therein as "Carry-Over Excess Percentage Taxes Paid from Previous Quarter/s".

3. Excess/Unutilized input taxes as a result of the change of status from VAT to Non-VAT registration, under Sec. 112(B) of the Tax Code of 1997, as amended, may be subject to refund or the issuance of Tax Credit Certificate (TCC), at the option of the taxpayer.

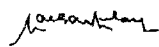
SECTION 4. REPEALING CLAUSE. – Any rules and regulations, issuances or parts thereof inconsistent with the provisions of these Regulations are hereby repealed, amended or modified accordingly.

SECTION 5. SEPARABILITY CLAUSE. – If any of the provisions of these Regulations is subsequently declared unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

SECTION 6. EFFECTIVITY. – These Regulations shall take effect fifteen (15) days following publication in the Official Gazette or in a leading newspaper of general circulation, whichever comes first. Provided, however, that the new exemptions introduced herein by CREATE shall commence upon the effectivity of the said law, unless otherwise stated.


CARLOS G. DOMINGUEZ
Secretary of Finance
APR 07 2021 

Recommending Approval:


CAESAR R. DULAY
Commissioner of Internal Revenue
042290

