REVENUE REGULATIONS AMENDING SECTIONS 16 AND 23 OF REVENUE REGULATIONS NO. 5-87

BIR REVENUE REGULATIONs NO. 3-88, April 07, 1988

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SECTION 1. Scope . — Pursuant to the provisions of Section 245 in relation to Section 4, both of the National Internal Revenue Code, as amended, these Regulations are hereby promulgated amending Sections 16 and 23 of Revenue Regulations No. 5-87.

SECTION 2. Section 16 of Revenue Regulations 5-87 is hereby amended to read as follows:

"Sec. 16. Refunds or tax credits of input tax. —

a. Zero-rated sales of goods and services. — Only a VAT-registered person may be granted a tax credit or refund of value-added taxes paid corresponding to the zero-rated sales of goods or services, to the extent that such taxes have not been applied against output taxes, upon showing of proof of compliance with the conditions stated in Section 8 of these Regulations.

"For export sales, the application should be filed with the Bureau of Internal Revenue within two years from the date of exportation. For other zero-rated sales, the application should be filed within two years after the close of the quarter when the transaction took place.

"b. Capital Goods. — Only a VAT-registered person may be granted a tax credit or refund of input taxes paid on capital goods, to the extent that such input taxes have not been applied against output taxes. If the applicant is an on-going concern, the application for refund can be made only after the expiration of two successive quarters following the end of the taxable quarter in which the input tax was paid by the VAT-registered person. In this case, if the VAT-registered person bought capital goods in the second quarter, he has to wait for the lapse of the third and fourth quarters before he can file his application for refund.

"If the purchaser of the capital goods is a newly registered person, he can apply for refund of input taxes on capital goods only after the expiration of 180 days from the date of registration or actual commencement of business operation, whichever comes later. In any case, the application shall be made within two years from the date of payment of the tax.

For example, "Y" Manufacturing Company was registered for VAT purposes on February 1, 1988. It imported capital equipment which arrived on February 28, 1988. The machinery was installed and it started business operation beginning May 1, 1988. In this case, the 180 days shall be counted from May 1, 1988.

"Refund of input taxes on capital goods shall be allowed only to the extent that such capital goods are used in VAT taxable business. If it is also used in exempt operations, the input tax refundable shall only be the ratable portion corresponding to the taxable operations.

"Refund or issuance of Tax Credit Certificates for input taxes on capital goods purchased from BOI-registered pioneer enterprises, partially subject to VAT on sale of their registered products, shall be allowed only to the extent of the input taxes paid by the buyer on the VAT-taxable portion. However, with respect to input taxes deemed paid on the exempt portion of the purchase, these shall be allowed only as credit against output tax due and can neither be refunded nor become the basis for the issuance of a Tax Credit Certificate.

(c) Claims for tax credits/refunds. — Application For Tax Credit/Refund of Value-Added Tax Paid (BIR Form No. 2552) shall be filed with the Revenue District Office of the city or municipality where the principal place of business of the applicant is located or directly with the Commissioner, Attention: VAT Division.

A photo copy of the purchase invoice or receipt evidencing the value added tax paid shall be submitted together with the application. The original copy of the said invoice/receipt, however, shall be presented for cancellation prior to the issuance of the Tax Credit Certificate or refund. In addition, the following documents shall be attached whenever applicable:

"1. Export Sales

" i) photo copy of export document showing the amount of export, and the date and destination of the goods exported. With respect to foreign currency denominated sale, the photo copy of the invoice or receipt evidencing the sale of the goods, as well as the name of person to whom the goods were delivered.

"ii) statement from the Central Bank or any of its accredited agent banks that the proceeds of the sale in acceptable foreign currency has been inwardly remitted and accounted for in accordance with applicable banking regulations.

"2. Zero-rated sale of services.

" i) authenticated copy of the contract showing the person from whom the services were rendered, the amount of the consideration and description of the services and document evidencing actual payments.

"ii) statement from the Central Bank of any of its accredited agent bank that the consideration in acceptable foreign currency has been inwardly remitted and accounted for in accordance with applicable banking regulations.

Under subparagraphs 1(ii) and 2(ii), the statement shall show the amount in foreign currency of the export proceeds or consideration and the date of inward remittance, conversion rate into Philippine currency and the total peso value thereof.

"3. Effectively zero-rated sale of goods and services.

" i) photo copy of approved application for zero rate if filing for the first time.

"ii) sales invoice or receipt showing name of the person or entity to whom the sale of goods or services were delivered, date of delivery, amount of consideration, and description of goods or services delivered.

"iii) evidence of actual receipt of goods or services.

"4. Purchase of capital goods.

" i) original copy of invoice or receipt showing the date of purchase, purchase price, amount of value-added tax paid and description of the capital equipment locally purchased.

"ii) with respect to capital equipment imported, the photo copy of import entry document for internal revenue tax purposes and the confirmation receipt issued by the Bureau of Customs for the payment of the value-added tax.

"5. In applicable cases, where the applicant's zero-rated transactions are regulated by certain government agencies, a statement therefrom showing the amount and description of sale of goods and services, name of persons or entities (except in case of exports) to whom the goods or services were sold, and date of transaction shall also be submitted.

In all cases, the amount of refund or tax credit that may be granted shall be limited to the amount of the

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value-added tax (VAT) paid directly and entirely attributable to the zero-rated transaction during the period covered by the application for credit or refund.

Where the applicant is engaged in zero-rated and other taxable and exempt sales of goods or services, and the VAT paid (inputs) on purchases of goods and services cannot be directly attributed to any of the aforementioned transactions, the following formula shall be used to determine the creditable or refundable input tax for zero-rated sale:

Amount of Zero-rated Sale

X

Total Amount of Input Taxes

Total Sales

= Amount Creditable/Refundable

For example:

Zero-rated sales..... P100,000
Taxable sales..... 200,000
Exempt sales..... 100,000
Input tax..... 10,000

P100 ,000

———— X P10 ,000 = P2,500 refundable or creditable VAT

400,000

(d) Cancellation of registration. — A person whose registration has been cancelled due to retirement from or cessation of business, or due to changes or cessation of status in accordance with Section 5 of these Regulations may, within two years from the date of such cancellation, apply for the issuance of a tax Credit Certificate, for any input tax credit unused as of the date of cancellation. The application which shall be filed with the Revenue District Officer where his principal place of business is situated should be accompanied by an acknowledged copy of the final VAT return."

SECTION 3. Section 23 (b) is hereby amended to read as follows:

"(b) Where to file the return. (1) Returns involving cash payment. — Returns with an amount due to be paid in cash shall be filed with any duly accredited bank in the city or municipality where his principal place of business is located. If there are no accredited banks within the city or municipality where a taxpayer has his principal place of business, he may file his return with the collection agent or the duly authorized treasurer of the municipality or with the Revenue District Officer. He may, however, file his return with any duly accredited bank within the jurisdictional area of the Revenue District Office where his principal place of business is located.

"(2) No Cash payment returns. — All returns where no cash payment is involved shall be filed with the Revenue District Officer, Collection Agent or authorized Municipal Treasurer where a filer has his principal place of business.

"(3) Returns to be paid in tax credit certificate. — If the value-added tax payable on the return shall be paid wholly in tax credit certificate (BIR Form No. 2320) the return shall be filed with the Revenue District Officer of the city or municipality where the principal place of business of the VAT taxpayer is located. The Revenue

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District Officer shall issue a Tax Debit Memo (BIR Form No. 2321) showing the serial number of the Tax Credit Certificate (TCC) and the amount for which the TCC was applied.

"If the value-added tax payable is to be paid partly in Tax Credit Certificate and partly in cash, the Revenue District Officer shall issue the corresponding Tax Debit Memo covering the amount paid by TCC. The duplicate copy of the TDM shall be attached to the original of the VAT return to be filed with the proper accredited bank or Collection Agent or duly authorized Municipal Treasurer as the case may be."

SECTION 4. Effectivity . — These Regulations shall take effect upon its approval.

Adopted: 7 April 1988

(SGD.) VICENTE R. JAYME
Secretary of Finance

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