

REVENUE REGULATIONS NO. 4-2021 issued on April 8, 2021 implements the provisions on Value-Added Tax (VAT) and Percentage Tax under Republic Act (RA) No. 11534 (Corporate Recovery and Tax Incentives for Enterprises Act or CREATE Act), which further amended the National Internal Revenue Code (NIRC) of 1997, as amended, as implemented by Revenue Regulations (RR) No. 16-2005 (Consolidated VAT Regulations of 2005), as amended.

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. –

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(B) Exempt transactions. –

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

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(4) Sale of residential lot valued at One Million Five Hundred Thousand Pesos (₱1,500,000.00) and below, or house & lot and other residential dwellings valued at Two Million Five Hundred Thousand Pesos (₱2,500,000.00) and below, as adjusted in 2011 using the 2010 Consumer Price Index values.

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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 (₱2,000,000.00), 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).

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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.

(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 (₱3,000,000.00)**.

For purposes of these Regulations, the ₱3,000,000.00 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.

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"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%).

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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.

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 RA 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.
- 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*".

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.