

REVENUE REGULATIONS NO. 4-2022 issued on May 26, 2022 implements Section 295(F), in relation to Section 294, both of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act (RA) No. 11534 (Corporate Recovery and Tax Incentives for Enterprises [CREATE Act]), on the tax treatment of the importation of petroleum and petroleum products into, and subsequent transfer, transport and/or withdrawal through and from Freeport Zones and Economic Zones.

Pursuant to Section 244, in relation to Section 245 of the Tax Code, these Regulations are promulgated in order to prescribe the following:

- a. the tax administration treatment of all petroleum products entered and/or imported into Philippine Freeport Zones or Economic Zones;
- b. the strict monitoring of the movement of all petroleum and petroleum products within the aforementioned Zones and the subsequent transfer, transport and/or withdrawal of the same therefrom; and
- c. the refund of Value-Added Tax (VAT) and Excise Taxes paid for transactions statutorily zero-rated or exempt therefrom.

The VAT and Excise Tax which are due on all petroleum and petroleum products that are entered and/or imported into the Zones shall be paid by the party which entered the same or the importer thereof, as the case may be, to the Bureau of Customs (BOC) prior to any and all subsequent Transfer, Transport and/or Withdrawal of the same after its entry or importation.

The Excise Tax or VAT paid, as the case may be, for petroleum and petroleum products that are exported outside the Philippines or transferred, delivered and sold to the following:

For VAT: (i) to a registered export enterprise and have been directly and exclusively used in its registered export project/activity; or (ii) to entities engaged in international shipping or air transport operations and have been actually used therefor; or (iii) to entities that are statutorily zero-rated for VAT under special laws or international agreements to which the Philippines is a signatory;

For Excise Tax: (i) international carriers of Philippine or foreign registry on their use or consumption outside the Philippines; or (ii) exempt entities or agencies covered by tax treaties, conventions and other international agreements for their use of consumption; or (iii) entities which are by law exempt from direct and indirect taxes,

may be refunded by filing a claim for credit or refund with the BIR for verification and evaluation. Once approved, the claim shall be forwarded to the BOC for cash payment or issuance of a tax credit certificate, as applicable. No claim for refund shall be granted unless it is properly shown to the satisfaction of the BIR that said petroleum or petroleum products have actually been transferred, delivered, sold, and used by, the foregoing entities for the above-stated purposes.

In case the Zone registered enterprise shall subsequently (i) sell/introduce the petroleum or petroleum products, or part of the volume thereof, into the customs territory (except sales of fuel for use in international operations), or (ii) sell to another Zone registered business enterprise and/or party not enjoying tax privileges, no refund for taxes shall be granted for the product sold. In any event, the possessor of petroleum or petroleum products must be able to present sufficient evidence that the proper taxes due thereon have been paid, otherwise all the taxes due on said goods shall be collected from said possessor/user.

The importation, however, of petroleum products by a registered export enterprise to be used directly and exclusively for its project or activity shall be VAT exempt but subject to Excise Tax. Moreover, the importation by a Philippine refinery enjoying fiscal incentives with an Investment Promotion Agency (IPA) of crude petroleum to be refined at its refinery inside the Zone, shall be exempt from payment of applicable duties and taxes under Section 295(G) of the Tax Code.

Upon lifting of the petroleum products produced from the imported crude oil, the applicable duties and taxes shall be paid thereon, thus:

- a. during Income Tax Holiday (ITH), the Excise Tax or VAT paid, as the case may be, on petroleum products sold to entities entitled to 0% VAT or Excise Tax exemption may be claimed for refund under this rules; and
- b. during 5% Special Corporate Income Tax (SCIT)/Gross Income Earned (GIE), the export sales and sales inside the Zones shall be exempt from VAT and Excise Taxes.

The introduction into the customs territory of petroleum products produced from the imported crude oil by the said refinery to the extent of its local sales allowance shall be subject to applicable duties and taxes payable by the importer thereof; Provided that the Excise Tax or VAT paid, as the case may be, paid on sale to entities entitled to 0% VAT or Excise Tax exemption may be claimed for refund under this rules; Provided finally, that importations of petroleum products produced from imported crude oil by registered export enterprises located outside the Zones and used directly and exclusively in their registered project or activity shall be exempt from VAT but subject to Excise Taxes.

For each and every Transfer, Transport and/or Withdrawal of petroleum and petroleum products, the party which entered the same or the importer thereof, as the case may be, shall before the release thereof from Customs custody and the respective Zone Authority:

- a. secure the prescribed Authority to Release Imported Goods (ATRIG) from the BIR's Excise Tax Regulatory Division (ETRD) for petroleum and petroleum products imported into the Zones;
- b. pay the VAT and Excise Tax, as the case may be and computed at the time of Transfer, Transport and Withdrawal;
- c. obtain a Withdrawal Certificate from the BIR Excise LT Field Office Division (ELTFOD) for petroleum and petroleum products entered into the Zones. The Withdrawal Certificate shall, at all times, accompany each and every Transfer, Transport and/or Withdrawal of petroleum products regardless of the mode of conveyance.

For Excise Tax purposes, all importers of petroleum and petroleum products shall secure a Permit to Operate with the BIR's ETRD. Such permit shall prescribe the appropriate terms and conditions which shall include, among others, the issuance of a Withdrawal Certificate and the submission of liquidation reports, for the Permittee's strict compliance.

All tank facilities, depots or terminals throughout the Philippines, including those located within the Freeport Zones as well as within the Economic Zones shall be registered by the owners, lessors or operators thereof with the appropriate BIR Office having jurisdiction over the said facilities as follows:

Revenue Regions Where the Storage Facilities are Located	Appropriate BIR Office Where to Register
Revenue Region Nos. 4, 5, 6, 7, 8, 9 and 10	Excise Tax Regulatory Division, National Office
Revenue Region 1, 2 and 3	Excise Tax Area I - Baguio City
Revenue Region Nos. 11 and 12	Excise Tax Area III - Bacolod
Revenue Region Nos. 13 and 14	Excise Tax Area IV - Cebu
Revenue Region Nos. 15 and 19	Excise Tax Area V - Davao
Revenue Region Nos. 16, 17 and 18	Excise Tax Area VI - Cagayan de Oro

In cases where said facilities will be used for the storage of petroleum or petroleum products or other goods subject to Excise Taxes, a Permit to Operate from the BIR shall be issued. Said permit shall prescribe the appropriate terms and conditions which shall include, among others, the maintenance of Official Register Books or their equivalent, issuance of Withdrawal Certificate for every removal from the refinery or customs custody to the point of destination and succeeding transfer of petroleum products, joint supervision over the facilities with the BIR, through the assignment of Revenue Officers, and stocktaking/physical inventory taking of petroleum and petroleum products stored therein. The monitoring requirements prescribed in this Section and in the permit granted shall likewise be strictly observed.

A facility which will not be used for storage of petroleum or petroleum products or other articles subject to Excise Taxes, if satisfactorily established to the BIR, will be issued a Permit to Operate Exempt Facility. This notwithstanding, both Permit to Operate and Permit to Operate Exempt Facility should categorically state the goods stored therein, and should any changes be planned, an application for new permit should be made.

All owners, lessors or operators of tank facilities, depots or terminals shall submit the following copies of documents to the appropriate BIR Offices according to Section 4 of these Regulations within fifteen (15) days from the date of effectivity of these Regulations:

- a. BIR Certificate of Registration;
- b. Latest Blueprint of the Perspective Design of the whole storage facility, depot or terminal specifically containing, among others, the tanks located therein, duly approved by a licensed professional authorized by law to issue such document;
- c. Lease or Operating Agreement, in case the whole facility, depot or terminal is actually being leased or operated by another person or entity other than the owner thereof;
- d. Terminalling, Lease, or Storage Agreement(s) with the lessee-owner(s) of the content(s) of the respective tank(s); and
- e. Notarized undertaking(s) executed jointly with the respective lessee-owner(s) of the content(s) of the storage tank(s) within the facility, depot or terminal containing the tank number, description of the product and the volume of inventory thereof as of the date of effectivity of these Regulations.

The concerned BIR Offices shall issue the duly approved Permits to Operate, after evaluation/validation of the foregoing documents and the conduct of verification and ocular inspection of the facilities, depots and terminals, within thirty (30) days from receipt of such documents.