

REVENUE REGULATIONS NO. 7-2022 issued on June 30, 2022 provides the policies and guidelines for the availment of tax incentives provided under the Renewable Energy Act of 2008.

Renewable Energy (RE) developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall secure the certifications/ accreditations specified in these Regulations before any incentive provided for in the Act may be availed of.

Existing and new RE developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall register with the Department of Energy (DOE), through the Renewable Energy Management Bureau (REMB). The following certifications shall be secured and submitted to the BIR:

- a. DOE Certificate of Registration - issued to an RE developer holding a valid RE Service/Operating Contract. For existing RE projects, the new RE Service/Operating Contract shall pre-terminate and replace the existing Service Contract that the RE Developer has previously executed with the DOE. The DOE Certificate of Registration is issued immediately upon award of an RE Service/Operating Contract covering an existing or new RE project or upon approval of additional investment. Any investment added to existing RE projects is subject to prior approval by the DOE.
- b. DOE Certificate of Accreditation - issued to RE manufacturers, fabricators, and suppliers of locally-produced RE equipment, upon submission of necessary requirements as determined by the DOE, in coordination with the Department of Trade and Industry (DTI).

RE developers shall secure the Certificate of Endorsement from the DOE prior to the first year of availment of the 10% Corporate Income Tax rate incentive. Manufacturers, fabricators, and suppliers of locally-produced RE equipment who import components, parts, and materials necessary for the manufacture and/or fabrication of RE equipment shall secure a Certificate of Endorsement from the DOE, through the REMB, on a per importation basis.

To qualify for incentives under the Act, RE developers, manufacturers, fabricators, and suppliers of locally-produced equipment shall register with the Board of Investments (BOI). The Certificate of Income Tax Holiday (ITH) Entitlement (CE) issued by the BOI is a required attachment to the current annual Income Tax Return (ITR) to be filed with the BIR. The ITH shall only be applied to the registered activity indicated in the CE. Failure to attach the CE to the ITR may result to the forfeiture of the ITH incentive for the covered taxable year.

The following provisions shall govern the tax incentives and treatments on the DOE-certified existing and new RE developers of RE facilities in consultation with BOI, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications:

- A. Income Tax Holiday (ITH) - The duly-registered RE developer shall be exempt from Income Taxes levied by the National Government for the period specified in Section 4A of these Regulations.
- B. Net Operating Loss Carry-Over (NOLCO) - The NOLCO of the RE developer during the first three (3) years from the start of commercial operation shall be carried over as a deduction from gross income for the next seven (7) consecutive taxable years immediately following the year of such loss, subject to the conditions specified in Section 4B of these Regulations.
- C. Corporate Tax Rate - After availment of the ITH, all registered RE developers shall pay a Corporate Tax of ten percent (10%) on their net taxable income as defined in the National Internal Revenue Code (NIRC) of 1997, as amended: *Provided*, That the RE developers shall pass on the savings to the end-users in the form of lower power rates.

All RE developers that acquire, operate, and/or administer existing RE facilities that were or have been in commercial operation for more than seven (7) years, upon the effectivity of the Act, shall pay a Corporate Tax rate of 10% on their net taxable income, upon registration with the DOE. For purposes of availment of this incentive, the RE developer shall submit to the BIR the documents specified in Section 4C of these Regulations.

In the years succeeding its initial availment of the 10% Corporate Income Tax rate incentive, following the effectivity of the Regulations, the RE developer shall attach to the ITR, in addition to the specified requirements, proof of submission to the DOE and ERC of the Report, supported by technical and financial documents, as required in Section 1(E) of DOE Department Circular No. DC2021-12-0042. To further prove that the RE developer has, during the previous year, passed on the savings derived from this incentive to the end-users in the form of lower power rates, the RE developer shall submit to the BIR the rates approved by the ERC.

- D. Accelerated Depreciation - If an RE project fails to receive an ITH before full operation, the RE developer may apply for accelerated depreciation in its tax books and be taxed on the basis of the same. If an RE developer applies for accelerated depreciation, the project or its expansions shall no longer be eligible to avail of the ITH. The RE developer shall inform the BIR, through the Revenue District Office (RDO) where it is registered, that it is availing of the accelerated depreciation instead of the ITH.

Plant, machinery and equipment that are reasonably needed and actually used for the exploration, development and utilization of RE resources may be depreciated using a rate not exceeding twice the rate which would have been used had the annual allowance been computed. Any of the following methods of accelerated depreciation may be adopted: i) declining balance method; and ii) sum-of-the years digit method.

- E. Zero Percent Value-Added Tax Rate - The sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be subject to zero percent (0%) Value-Added Tax (VAT) pursuant to the NIRC of 1997, as amended; Provided, that ancillary services generated through renewable sources of energy shall also be subject to zero percent (0%) VAT.

On the other hand, the purchase by an RE developer of local goods, properties, and services needed for the development, construction, and installation of the plant facilities of RE developers; and the whole process of exploration and development of RE sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors shall also subject to zero percent (0%) VAT.

Accordingly, local suppliers/sellers of goods, properties, and services of duly-registered RE developers should not pass on the 12% VAT on the latter's purchases of goods, properties and services that will be used for the development, construction and installation of their power plant facilities. This includes the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors.

The local suppliers of goods, properties, and services shall require from the RE developer a copy of the latter's BOI Registration and DOE Registration for purposes of availing the zero percent (0%) VAT incentive.

- F. Tax Exemption of Carbon Credits - All proceeds from the sale of carbon emission credits shall be exempt from any and all taxes.

The tax exemptions and/or incentives provided for in Section 4 of these Regulations shall be availed of by a registered RE developer of hybrid and cogeneration systems utilizing both RE sources and conventional energy but only in proportion to and to the extent of the RE component. Moreover, the tax exemptions and incentives for hybrid and cogeneration systems shall apply only to the equipment, machinery, and/or devices utilizing RE resources.

In this regard, the RE developer shall secure with the DOE a certification to distinguish the equipment, machinery, and/or devices utilizing RE resources. Only RE facilities shall be entitled to the RE incentives. For "common facilities", the DOE shall certify the capacity of RE in megawatts to determine the ratio of the tax exemption privileges to be granted to RE developers employing hybrid and co-generation systems. Moreover, a CE shall also be secured from the BOI should the RE developer avail of the ITH and attach the same to the annual ITR to be filed with the BIR.

All manufacturers, fabricators, and suppliers of locally-produced RE equipment and components duly recognized and accredited by the DOE and upon registration with the BOI, shall be entitled to the privileges set forth below on their sale of RE equipment to RE developers:

- A. Value-Added Tax (VAT)-free Importation of Components, Parts and Materials - All shipments necessary for the manufacture and/or fabrication of RE equipment and components shall be exempt from VAT on importation: *Provided*: That the said components, parts, and materials comply with the conditions set forth in Section 6A of these Regulations.

The importation of components, parts, and materials as allowed herein shall not be subject to the issuance of an Authority to Release Imported Goods (ATRIG) under Revenue Memorandum Order (RMO) No. 35-2002, as amended; and may be released by the Bureau of Customs (BOC) without need of an ATRIG. The BIR, however, may conduct a post investigation/audit on the importations released by the BOC without ATRIG pursuant to these Regulations.

- B. Income Tax Holiday and Exemption - For seven (7) years starting from the date of registration and accreditation with the appropriate government agencies, such as the DOE and the BOI, an RE manufacturer, fabricator, and supplier of RE equipment shall be fully exempt from Income Taxes levied by the National Government on net income derived only from the sale of RE equipment, machinery, parts, and services.

- C. Zero-Rated Value-Added Tax Transaction - All manufacturers, fabricators, and suppliers of locally-produced RE equipment shall be subject to zero-rated VAT on their transactions with local suppliers of goods, properties, and services needed in the manufacture/fabrication of RE equipment; *Provided*, that the local suppliers of goods, properties, and services shall require the manufacturers, fabricators, and suppliers of locally-produced RE equipment the following documents for purposes of future tax audit/refund:

- i. BOI registrations of the manufacturer/fabricator/supplier and of the recipient RE developer; and
- ii. DOE registration/accreditation of the manufacturer/fabricator/ supplier and of the recipient RE developer.

All individuals and entities engaged in the plantation of crops and trees used as Biomass Resources shall be exempt from payment of VAT on all types of agricultural inputs, equipment, and machinery within ten (10) years from the effectivity of the Act, subject to the certification by the DOE and the conditions set forth in Section 7 of these Regulations:

Purchasers of RE equipment for residential, industrial or community use shall be entitled to a rebate equivalent to the VAT passed on to the said purchasers. The rebate shall only be available to purchasers who are not VAT-registered and shall be in the form of a tax credit from the Income Tax liability of the purchasers during the year of purchase. Any unutilized rebate or tax credit shall be forfeited.

Unless otherwise provided by law, the registration/accreditation to avail of incentives under the Act shall disqualify the availment of other tax and non-tax incentives under the NIRC, as amended by Republic Act (RA) No. 11534 (Corporate Recovery and Tax Incentives for Enterprises or CREATE Act).

RE developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment availing the incentives provided for in the Act shall comply with the filing and reportorial requirements under RA No. 11534 (CREATE Act). Non-compliance with the filing and reportorial requirements shall be meted with the penalties under the law.