

**REVENUE REGULATIONS NO. 13-2023** issued on November 10, 2023 prescribes the policies and guidelines for the optional VAT-registration of Registered Business Enterprises (RBE) classified as Domestic Market Enterprise (DME) under the five percent (5%) tax on Gross Income Earned (GIE) in lieu of all taxes regime during the transitory period pursuant to Rule 18, Section 5 of the amended Implementing Rules and Regulations (IRR) of Republic Act No. 11534 (CREATE Act).

An RBE classified as DME, which is located inside the Economic or Freeport Zone, may retain the availment of the 5% GIE incentive during the ten (10) year transitory period under Section 311 (C) of the CREATE Act and be allowed to register as a VAT taxpayer provided it secures from the concerned Investment Promotion Agency (IPA) a Certification specifically excluding VAT from the 5% GIE in lieu of all taxes incentive granted to it (Certification). The Certification shall expressly state that the five percent (5%) GIE shall be in lieu of all taxes except VAT.

For this purpose, such RBE shall submit to the concerned IPA the following documentary requirements:

- a. Request letter stating its intention to avail of the option to register as a VAT taxpayer with the BIR pursuant to Section 5, Rule 18 of the amended IRR of the CREATE;
- b. Notarized "Deed of Waiver of Right to Avail of the VAT Exemption Incentive" in the form prescribed in the Regulations; and
- c. Other documents that may be prescribed by the concerned IPA.

The waiver of rights to avail of the VAT exemption incentive shall be irrevocable from the time it is made and shall be binding in the remaining transitory period.

Non-VAT registered RBEs that have been issued the Certification shall update their registrations with the concerned Revenue District Office (RDO) to reflect their registration from non-VAT to VAT taxpayer. Consequently, such RBE shall be treated on par with regular corporations insofar as the VAT imposition and compliance is concerned.

Upon the effectivity of these Regulations, the concerned IPA shall furnish the BIR through the Assessment Service, *Attention: Audit Information, Tax Exemption and Incentives Division (AITEID)* within twenty (20) days following the close of each taxable quarter a list of RBEs that have been issued the Certification. In order to obtain relevant information, for audit purposes, the Commissioner of Internal Revenue may prescribe a report template in a separate revenue issuance.

These Regulations shall apply prospectively in accordance with Section 3 of the amended IRR of CREATE. DMEs inside the economic or freeport zone that will opt to register as VAT taxpayers pursuant to the Regulations shall not be allowed to claim for VAT refund relating to its transactions prior to the effectivity of the amended IRR of CREATE.