

Chapter III

VALUE ADDED TAX¹⁴²

A. SCOPE

The VAT applies, in general, to all persons who sell, barter, exchange or lease goods or properties, or render services in the course of trade or business¹⁴³ whose annual gross sales or receipts exceed PhP1,919,500,¹⁴⁴ and those who import goods, whether for business or otherwise.¹⁴⁵ The following transactions are deemed sale for purposes of VAT:¹⁴⁶

1. Transfer,¹⁴⁷ use, or consumption not in the course of business of goods or properties originally intended for sale or for use in the course of business;

¹⁴² Title IV, NIRC, as amended by RAs 7716, 8241, 8424, 9238, 9337, 9361, 9511 and 10378 and 10864.

¹⁴³ The term “*in the course of trade or business*” means the regular conduct or pursuit of a commercial or economic activity, including transactions incidental thereto, by any persons regardless of whether or not the person engaged therein is a non-stock, non-profit private organization, or government entity.

¹⁴⁴ Sec. 109(V), *supra*. RR 16-2011 increased the amount of the threshold from PhP1,500,000 under RA 9337 to PhP1,919,500 using 2010 CPI effective January 1, 2012. The amount shall be adjusted to its present value using the CPI, as published by the NSO, every three (3) years thereafter and the adjustment shall be published through revenue regulations to be issued not later than March 31 of each year.

¹⁴⁵ Sec. 105, *supra*.

¹⁴⁶ Sec. 106(B), *supra*.

¹⁴⁷ Transfer of goods or properties not in the course of business can take place when a VAT registered person withdraws goods from his business for his personal use. [Sec. 4.106-7 (a)(1), RR 16-2005]

2. Distribution or transfer to shareholders or investors as share in the profits of the VAT-registered persons, or to creditors in payment of debt or obligation;
3. Consignment of goods if actual sale is not made within 60 days following the date such goods were consigned; and
4. Retirement from or cessation of business, with respect to inventories of taxable goods existing as of such retirement or cessation.

On these deemed sale transactions, the BIR Commissioner, by the rules and regulations prescribed by the Secretary of Finance, is authorized to determine the base of the tax.¹⁴⁸

B. RATE AND BASE OF TAX¹⁴⁹

There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, a value-added tax equivalent to twelve percent (12%) (starting February 1, 2006).¹⁵⁰ The taxable base is gross selling price in the case of sale of taxable goods, or gross receipts from the sale of taxable services, except on transactions subject to zero rate (generally export and export-related activities). On imports, the base is the dutiable value, plus customs duties, excise tax, if any, and other charges prior to the release of such goods from customs custody.

¹⁴⁸ Sec. 106(A), *supra*.

¹⁴⁹ Sec. 106(E), *supra*.

¹⁵⁰ RMC 7-2006 increased the VAT rate from 10% to 12% effective February 1, 2006 upon the recommendation of the Secretary of Finance and after certain conditions were satisfied as stated under RA 9337.

C. TRANSACTIONS SUBJECT TO 12%**1. Sale of Goods or Properties¹⁵¹**

All goods and properties (except those specifically exempt), including those subject to excise tax, sold, bartered or exchanged are subject to a 12% VAT based on the gross selling price¹⁵² or gross value in money.

2. Importation of Goods¹⁵³

Importation of goods is subject to a 12% VAT based on the total value used by the Bureau of Customs in determining tariff and customs duties, plus excise taxes, if any, and other charges which shall be paid prior to the release of the goods from customs custody: *Provided*, That where the customs duties are determined on the basis of the quantity or volume of the goods, the VAT shall be based on the landed cost plus excise tax, if any.

In case tax-free imports are subsequently sold to non-exempt persons, the purchasers or possessors thereof shall be considered the importers thereof who shall be liable for any internal revenue tax on such importation.

¹⁵¹ Sec. 106(A), *supra*.

¹⁵² The term “*gross selling price*” means the total amount of money or its equivalent which the purchaser pays or is obligated to pay to the seller in consideration of the sale, barter or exchange of the goods or properties, excluding VAT. The excise tax, if any, on such goods or properties shall form part of the gross selling price.

In the case of sale, barter or exchange of real property subject to VAT, gross selling price shall mean the consideration stated in the sales document or the fair market value, whichever is higher. If the VAT is not billed separately in the document of sale, the selling price or the consideration stated therein shall be deemed to be inclusive of VAT. (Sec. 4, RR 4-2007)

¹⁵³ Sec. 107, *supra*.

3. *Sale of Services and Use or Lease of Properties*¹⁵⁴

The ‘sale or exchange of services’¹⁵⁵ is subject to a 12% VAT based on the gross receipts¹⁵⁶ derived by any person engaged in the sale of such services or lease of properties, including the following:

- a. Construction and service contractors;
- b. Stock, real estate, commercial, customs and immigration brokers;
- c. Lessors of property, whether personal or real;
- d. Persons engaged in warehousing services;
- e. Lessors or distributors of cinematographic films;
- f. Persons engaged in milling, processing, manufacturing or repacking of goods for others;
- g. Proprietors, operators or keepers of hotels, motels, rest houses, pension houses, inns, resorts, theaters and movie houses;
- h. Proprietors or operators of restaurants, refreshment parlors, cafes and other eating places, including clubs and caterers;
- i. Dealers in securities;

¹⁵⁴ Sec. 108, *supra*.

¹⁵⁵ The term “*sale or exchange of services*” means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration, regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties. [Sec. 108(A), NIRC.]

¹⁵⁶ The term “*gross receipts*” means the total amount of money or its equivalent representing the contract price, compensation, service fee, rental or royalty, including the amount charged for materials supplied with the services and deposits applied as payments for services rendered and advanced payments actually or constructively received during the taxable period for services performed or to be performed for another person, excluding VAT, except those amounts earmarked for payment to unrelated third (3rd) party or received as reimbursement for advance payment on behalf of another which do not redound to the benefit of the payor. (Sec. 4.108-4, RR 4-2007)

- j. Lending investors;
- k. Transportation contractors on their transport of goods or cargoes, including persons who transport goods or cargoes for hire and other domestic common carriers by land relative to their transport of goods or cargoes¹⁵⁷;
- l. Common carriers by air and sea relative to their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines¹⁵⁸;
- m. Sales of electricity by generation and distribution companies¹⁵⁹;
- n. Franchise grantees of electric utilities, telephone and telegraph; radio and/or television broadcasting and all other franchise grantees, except franchise grantees of radio and/or television broadcasting whose annual gross receipts of the preceding year do not exceed PhP10 million, and franchise grantees of gas and water utilities;
- o. Non-life insurance companies (except their crop insurances) including surety, fidelity, indemnity and bonding companies;
- p. Similar services regardless of whether or not the performance thereof calls for the exercise of or use of the physical and mental faculties;

¹⁵⁷ It is noted that transport network companies, such as but not limited to the likes of UBER, GRAB TAXI, their Partners/suppliers and similar arrangements, who are not holders of a valid and current Certificate of Public Convenience are known as land transportation service contractors subject to the 12% VAT. Otherwise, it is classified as a common carrier subject to the 3% domestic carrier tax under Sec. 117. (RMC 70-2015)

¹⁵⁸ RA 9337 removed the VAT exemption of common carriers by air and sea relative to their transport of passengers.

¹⁵⁹ RA 9511 imposed a 3% franchise tax on all gross receipts derived by the National Grid Corporation from its transmission operation, in effect, amending the VAT by reverting the taxation of transmission companies to the franchise tax.

- q. The lease or the use of or the right or privilege to use any copyright, patent, design or model, plan, secret formula or process, goodwill, trademark, trade brand or other like property or right;
- r. The lease or the use of, or the right to use of any industrial, commercial or scientific equipment;
- s. The supply of scientific, technical, industrial or commercial knowledge or information;
- t. The supply of any assistance that is ancillary and subsidiary to and is furnished as a means of enabling the application or enjoyment of any such property or right as is mentioned in item (r) above or any such knowledge or information as is mentioned in item (s) above;
- u. The supply of services by a non-resident person or his employee in connection with the use of property or rights belonging to, or the installation or operation of any brand, machinery, or other apparatus purchased from such non-resident person;
- v. The supply of technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme;
- w. The lease of motion picture films, tapes and discs;
- x. The lease or the use of, or the right to use, radio, television, satellite transmission and cable television time;
- y. Real estate investment trust, on its disposal of real property and from rental of such real property;¹⁶⁰ and

¹⁶⁰ A real estate investment trust (REIT) shall be subject to VAT on its gross sales from any disposal of real property, and on its gross receipts from the rental of such real property. A REIT shall not be considered as a dealer in securities and shall not be subject to VAT on its sale, exchange or transfer of securities forming part of its real estate-related assets. (Sec. 15, RA 9856; RR 13-2011)

- z. Tollway operators;¹⁶¹
 - aa. Recreational clubs;¹⁶² and
 - bb. Condominium corporations and homeowners' association¹⁶³.

D. TRANSACTIONS SUBJECT TO 0%

1. *Sale of Goods*¹⁶⁴

- a. Export sales;¹⁶⁵
- b. Foreign currency denominated sales;¹⁶⁶ and

¹⁶¹ Starting October 1, 2011, the 12% VAT shall be imposed on the gross receipts of toll way operators from all types of vehicles. (RMC 39-2011)

¹⁶² Gross receipts of recreational clubs or clubs which are organized and operated exclusively for pleasure, recreation, and other non-profit purposes including but not limited to membership fees, assessment dues, rental income, and service fees are subject to VAT. (RMC 35-2012)

¹⁶³ In RMCs 65-2012 and 9-2013, association dues, membership fees and other assessments/charges collected by a condominium corporation and homeowners' association are subject to VAT since they constitute income payment or compensation for the beneficial services it provides to its members, tenants and homeowner-members. However, they may be exempted from VAT subject to the fulfillment of the conditions provided by Section 18 of RA 9904, otherwise known as the "Magna Carta for Homeowners and Homeowners' Associations".

¹⁶⁴ Sec. 106(A)(2), *supra*.

¹⁶⁵ "*Export sales*" means the sale and actual shipment of goods from the Philippines to a foreign country; sale of raw materials or packaging materials to a non-resident buyer for delivery to a resident local export-oriented enterprise; sale of gold to the BSP; those considered export sales under Executive Order (EO) No. 226 and other special laws; and sale of goods, supplies, equipment and fuel to persons engaged in international shipping or international air transport operations. [Sec. 106(A)(2)(a), *supra*.]

¹⁶⁶ "*Foreign currency denominated sale*" means the sale to a non-resident of goods, except those mentioned in Sections 149 and 150 of the Tax Code, assembled or manufactured in the Philippines for delivery to a resident in the Philippines, paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP. [Sec. 106(A)(2)(b), *supra*.]

- c. Sales to persons or entities whose exemption under special laws¹⁶⁷ or international agreements to which the Philippines is a signatory effectively subjects such sales to zero-rate.

2. *Sale of Services*¹⁶⁸

- a. Processing, manufacturing or repacking goods for other persons doing business outside the Philippines, which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP;
- b. Services other than processing, manufacturing or repacking rendered to a person engaged in business conducted outside the Philippines or to a non-resident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP;
- c. Services rendered to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects the supply of such services to 0% rate;
- d. Services rendered to persons engaged in international shipping or air transport operations, including leases of property for use thereof; *Provided*, however, that the services referred to herein shall not pertain to those made to common carriers by air and sea relative to their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines;
- e. Services performed by subcontractors and/or contractors in processing, converting, or manufacturing goods for an enterprise whose export sales exceed 70% of total annual production;

¹⁶⁷ RA 10068 (Organic Agriculture Act of 2010) and RA 10659 (Sugarcane Industry Development Act of 2015).

¹⁶⁸ Sec. 108(B), *supra*.

- f. Transport of passengers and cargo by domestic air or sea carriers from the Philippines to a foreign country; and
- g. 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 sources using technologies such as fuel cells and hydrogen fuels.¹⁶⁹

E. EXEMPT TRANSACTIONS AND SERVICES¹⁷⁰

1. *Sale or importation of:*

- a. Agricultural and marine food products in their original state,¹⁷¹ livestock and poultry of a kind generally used as, or yielding or producing foods for human consumption; and breeding stock and genetic materials therefor; and
- b. Fertilizers; seeds, seedlings and fingerlings; fish, prawn, livestock and poultry feeds, including ingredients¹⁷², whether locally

¹⁶⁹ *Provided*, however, that zero-rating shall apply strictly to the sale of power or fuel generated through renewable sources of energy, and shall not extend to the sale of services related to the maintenance or operation of plants generating said power. [Sec. 4.108-5 (b)(7), RR 16-2005]

¹⁷⁰ Sec. 109, *supra*.

¹⁷¹ Products shall be considered in their “*original state*” even if they have undergone the simple processes of preparation or preservation for the market, such as freezing, drying, salting, broiling, roasting, smoking or stripping. Polished and/or husked rice, corn grits, raw cane sugar and molasses, and ordinary salt, and copra shall be considered in their original state. [Sec. 109(A), *supra*.]

For this purpose, notwithstanding the process/es involved in its production, “raw sugar or raw cane sugar” means sugar whose content of sucrose by weight, in the dry state, corresponds to a polarimeter reading of less than 99.5 degrees. [Sec. 109(A), *supra*.]

¹⁷² For the sale or importation of certain feed ingredients (whey powder, skimmed milk powder, lactose, buttermilk powder, whole milk powder, palm olein) and such other feed ingredients and additives which may be hereinafter be determined by competent authority to have possible utilization for human consumption, there must be a showing that the same is unfit for human consumption or that the ingredient cannot be used for the production of food for human consumption as certified by the Food and Drug Administration (FDA). [RMC 55-2014 as revised by RMC 66-2014 and RMC 78-2014]

produced or imported, used in the manufacture of finished feeds (except specialty feeds for race horses, fighting cocks, aquarium fish, zoo animals and other animals generally considered as pets).

2. Importation of:

- a. Personal and household effects belonging to the residents of the Philippines returning from abroad and nonresident citizens coming to resettle in the Philippines; *Provided*, That such goods are exempt from customs duties under the Tariff and Customs Code of the Philippines;
- b. Professional instruments and implements, wearing apparel, domestic animals, and personal household effects (except any vehicle, vessel, aircraft, machinery, other goods for use in the manufacture and merchandise of any kind in commercial quantity) belonging to persons coming to settle in the Philippines, for their own use and not for sale, barter or exchange, accompanying such persons, or arriving within 90 days before or after their arrival, upon the production of evidence satisfactory to the Commissioner, that such persons are actually coming to settle in the Philippines and that the change of residence is *bona fide*; and
- c. Fuel, goods and supplies by persons engaged in international shipping or air transport operations.¹⁷³

3. Services rendered by:

- a. Persons subject to percentage tax under Title V of the NIRC;

¹⁷³ *Provided*, that the said fuel, goods and supplies shall be used exclusively or shall pertain to the transport of goods and/or passenger from a port in the Philippines directly to a foreign port, or vice versa, without docking or stopping at any other port in the Philippines unless the docking or stopping at any other Philippine port is for the purpose of unloading passengers and/or cargoes that originated from abroad, or to load passengers and/or cargoes bound for abroad; *Provided, further*, that if any portion of such fuel, goods or supplies is used for purposes other than that mentioned in this paragraph, such portion of fuel, goods and supplies shall be subject to 12% VAT. [Sec. 4.109-1 (B)(v), RR 4-2007]

- b. Agricultural contract growers¹⁷⁴ and milling for others of *palay* into rice, corn into grits and sugar cane into raw sugar or raw cane sugar;
- c. Medical, dental, hospital and veterinary services except those rendered by professionals;
- d. Educational services¹⁷⁵ rendered by private educational institutions, duly accredited by the Department of Education (DepEd), the Commission of Higher Education (CHED), the Technical Education and Skills Development Authority (TESDA) and those rendered by government educational institutions;
- e. Individuals pursuant to an employer-employee relationship;
- f. Regional or area headquarters established in the Philippines by multinational corporations which act as supervisory, communications and coordinating centers for their affiliates, subsidiaries or branches in the Asia-Pacific Region and do not earn or derive income from the Philippines; and
- g. Banks, non-bank financial intermediaries performing quasi-banking functions, and other non-bank financial intermediaries.¹⁷⁶

¹⁷⁴ Toll processing/toll dressing/toll manufacturing services performed independently from growing poultry, livestock or other agricultural and marine food products is subject to VAT pursuant to Sec. 108 of the Tax Code of 1997, as amended. (RMC 97-2010)

¹⁷⁵ “*Educational services*” shall refer to academic, technical or vocational education provided by private educational institutions duly accredited by the DepEd, the CHED and TESDA and those rendered by government educational institutions and it does not include seminars, in-service training, review classes and other similar services rendered by persons who are not accredited by the DepEd, the CHED and/or TESDA. [Sec. 4.109-1 (B)(h), RR 16-2005]

¹⁷⁶ Other non-bank financial intermediaries, such as money changers and pawnshops, subject to percentage tax under Sections 121 and 122, respectively, of the Tax Code. [Sec. 4.109-1 (B)(w), RR 4-2007]

4. Sales by:

- a. Agricultural cooperatives duly registered with the Cooperative Development Authority (CDA) to their members, as well as sale of their produce, whether in its original state or processed form, to non-members; their importation of direct farm inputs, machineries and equipment, including spare parts thereof, to be used directly and exclusively in the production and/or processing of their produce;¹⁷⁷
 - b. Non-agricultural, non-electric and non-credit cooperatives duly registered with the CDA; *Provided*, That the share capital contribution of each member does not exceed PhP15,000 and regardless of the aggregate capital and net surplus ratably distributed among the members; and
 - c. Persons who are not VAT-registered on their export sales.
5. Transactions which are exempt under international agreements to which the Philippines is a signatory or under special laws¹⁷⁸, except those granted under Presidential Decree (PD) No. 529 (Petroleum Exploration Concessionaires under the Petroleum Act of 1949);
6. Gross receipts from lending activities by credit or multi-purpose cooperatives duly registered with the CDA;

¹⁷⁷ Sales by agricultural cooperatives to non-members can only be exempted from VAT if the producer of the agricultural products sold is the cooperative itself. If the cooperative is not the producer (e.g., trader), then only those sales to its members shall be exempted from VAT.

It is to be reiterated however, that sale or importation of agricultural food products in their original state is exempt from VAT irrespective of the seller and buyer thereof, pursuant to Subsection (a) [Sec. 4.109-1 (B) (1), RR 4-2007]

¹⁷⁸ PD No. 1869 (PAGCOR Charter), RA 9295 (Domestic Shipping Development Act of 2004), RA 9367 (Biofuels Act of 2006), RA 9520 (Philippine Cooperative Code of 2008), RA 9994 (Expanded Senior Citizens Act of 2010), RA 10072 (Philippine Red Cross) and RA 10073 (New Girl Scouts of the Philippines Charter), RA 10744 (Credit Surety Fund Cooperative Act of 2015), RA 10747 (Rare Diseases of the Philippines) and RA 10754 (Magna Carta for Persons with Disability).

7. Lease of a residential unit¹⁷⁹ with a monthly rental not exceeding PhP12,800¹⁸⁰.

8. Sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business or real properties utilized for low-cost and socialized housing¹⁸¹ as defined by RA 7279, otherwise known as the Urban Development and Housing Act of 1992, and other related laws; residential lot valued at PhP1,919,500 and below, house and lot, and other residential dwellings valued at PhP3,199,200 and below;¹⁸²

¹⁷⁹ The term “*residential units*” shall refer to apartments and houses and lots used for residential purposes, and buildings or parts or units thereof used solely as dwelling places (*e.g.*, dormitories, rooms and bed spaces) except motels, motel rooms, hotels, hotel rooms, lodging houses, inns, and pension houses. On the other hand, the term “*unit*” shall mean an apartment unit in the case of apartments, house in the case of residential houses; per person in the case of dormitories, boarding houses and bed spaces; and per room in case of rooms for rent. (Sec. 3, RR 16-2011)

¹⁸⁰ Sec. 109(Q), *supra*. RR 16-2011 increased the amount of the threshold effective January 1, 2012 for the lease of residential lot from PhP10,000 to PhP12,800, regardless of the amount of aggregate rentals received by the lessor during the year. For a detailed discussion of the VAT treatment of lease or residential unit refer to RR 16-2011.

¹⁸¹ “*Low-cost housing*” refers to housing projects intended for homeless low-income family beneficiaries, undertaken by the Government or private developers, which may either be a subdivision or a condominium wherein the unit selling price is within the selling price per unit of PhP750,000. On the other hand, “*socialized housing*” refers to housing programs and projects covering houses and lots or home lots only undertaken by the Government or the private sector for the underprivileged and homeless citizens which shall not exceed PhP450,000 for a house and lot package. In the case of homelots only, the price shall not exceed 40% of the maximum limit prescribed for the house and lot package. [Sec. 4.109-1 (B)(p)(2) and (3), RR 16-2005 as amended by RMC 36-2011 and RMC 35-2014]

¹⁸² Sec. 109(P), *supra*. RR 13-2012 increased the amount of the threshold effective January 1, 2012 for the sale of residential lot from PhP1,500,000 to PhP1,919,500, and from PhP2,500,000 to PhP3,199,200 for house and lot and other residential dwellings where the instrument of sale/transfer/disposition was executed and notarized on or after January 1, 2012. For a detailed discussion on the VAT treatment on sale of adjacent residential lots, house and lots or other residential dwellings refer to RR 13-2012.

9. Sale, importation, printing or publication of books and any newspaper, magazine, review, or bulletin which appears at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication of paid advertisements;¹⁸³
10. Transport of passengers by international carriers doing business in the Philippines;¹⁸⁴
11. Sale, importation or lease of passenger or cargo vessels and aircraft, including engine, equipment and spare parts thereof for domestic or international transport operations subject to certain conditions; and
12. 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 PhP1,919,500¹⁸⁵.

¹⁸³ Sec. 109(R), *supra*. The terms “book”, “newspaper”, “magazine”, “review” and “bulletin” as used in Section 109(R) refer to printed materials in hard copies. They do not include those in digital or electronic format or computerized versions, including but not limited to: e-books, e-journals, electronic copies, online library sources, CDs and software. (RMC 75-2012).

¹⁸⁴ Sec. 109(S), *supra*. RA 10378 amended Sec. 109 of the NIRC of 1997 by inserting transport of passengers by international air and shipping carriers as one of the exempt transactions from the VAT. (Sec. 2, RA 10378)

¹⁸⁵ For purposes of the threshold of PhP1,919,500, the husband and wife shall be considered separate taxpayers. However, the aggregation rule for each taxpayer shall apply. For instance, if a professional, aside from the practice of his professions, also derives revenue from other lines of business which are otherwise subject to VAT, the same shall be combined for purposes of determining whether the threshold has been exceeded. Thus, the VAT-exempt sales shall not be included in determining the threshold. (Sec. 3, RR 16-2011)

F. CREDITABLE INPUT TAXES¹⁸⁶

A VAT-registered person is entitled to credit input taxes evidenced by VAT invoices or official receipts issued in accordance with Sections 113 and 237 of the NIRC on the following against his/her output tax:

1. Purchase or importation of goods:
 - a. For sale; or
 - b. For conversion into or intended to form part of a finished product for sale including packaging materials; or
 - c. For use as supplies in the course of business; or
 - d. For use as raw materials supplied in the sale of services; or
 - e. For use in trade or business for which deduction for depreciation or amortization is allowed under the Tax Code¹⁸⁷;
2. Purchase of real properties for which a VAT has actually been paid;
3. Purchase of services in which a VAT has actually been paid;
4. Transactions “deemed sale” under Section 106(B) of the Tax Code;
5. Transitional input tax allowed under Section 4.111 (a) of RR 16-2005;

¹⁸⁶ Sec. 110, *supra*, as amended by RA 9361 which repealed the 70% input VAT cap. (approved on November 21, 2006)

¹⁸⁷ Input tax is not allowed on non-depreciable vehicles including all maintenance expenses incurred. Yachts, helicopters, airplanes and/or aircrafts, and land vehicles which exceed the threshold amounts of PhP2.4 million are non-depreciable unless the taxpayer’s main line of business is transport operations or lease of transportation equipment and the vehicles purchased are used in said operations (RR 12-2012).

6. Presumptive input tax allowed under Section 4.111 (b), *supra*; and
7. Transitional input tax credits allowed under the transitory and other provisions, *supra*.

G. MANNER OF COMPUTING THE VAT

The tax is computed in the following manner:

1. Output tax exceeds total input tax.

Output Tax ¹⁸⁸	xxx
Less: Input Tax ¹⁸⁹	(xxx)
VAT Payable	xxx

2. Input tax total exceeds output tax

Output Tax	xxx
Less: Input Tax*	(xxx)
VAT Payable	(xxx)

* The unutilized input tax can be carried over to the succeeding month/quarter.

¹⁸⁸ The term “*output tax*” means the VAT due on sale or lease of taxable goods or properties or services by any person registered or required to register under Section 236 of this Code. [Sec. 110(A)(3), *supra*.]

¹⁸⁹ The term “*input tax*” means the VAT due from or paid by a VAT-registered person in the course of his trade or business on importation of goods or local purchase of goods or services, including lease or use of property, from a VAT-registered person. It shall also include the transitional input tax determined in accordance with Section 111 of this Code. [Sec. 110(A)(3), *supra*.]

Specifically, in computing the VAT, the input tax paid in a taxable quarter is credited against the output tax for the same quarter.

If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters: Provided, however, That any input tax attributable to zero-rated sales by a VAT-registered person may, at his option, be refunded or credited against other internal revenue taxes due him, subject to the provisions of Section 112.¹⁹⁰

Where a VAT-registered person purchases or imports capital goods, which are depreciable assets for income tax purposes, the aggregate acquisition cost of which (exclusive of VAT) exceeds PhP1 million in a calendar month, regardless of the acquisition cost of each capital goods shall be claimed as credit against output tax in the following manner:

- (a) If the estimated useful life of a capital good is five years or more:

Total input tax of the capital goods	xxx
Divided by: 60 months (beginning on the month of acquisition)	60
Input tax to be claimed monthly	xxx

- (b) If the estimated useful life of a capital good is less than five years:

Total input tax of the capital goods	xxx
Divided by: actual number of months comprising the estimated useful life of the capital goods (beginning on the month of acquisition)	xxx
Input tax to be claimed monthly	xxx

However, if the aggregate acquisition cost (exclusive of VAT) of the existing or finished depreciable capital goods purchased or imported during

¹⁹⁰ Sec. 110, *supra*, as amended by RA 9361.

any calendar month does not exceed PhP1 million, the total input tax will be allowable as credit against output tax in the month of acquisition.¹⁹¹

H. TRANSITIONAL/PRESUMPTIVE INPUT TAX CREDITS¹⁹²

1. ***Transitional Input Tax Credits.*** Any person who becomes liable to value-added tax or who elects to be a VAT-registered person shall be allowed, subject to the filing of an inventory as prescribed by rules and regulations, on his/her beginning inventory of goods, materials and supplies, an input tax equivalent to 2% of the value of such inventory or the actual value-added tax paid on such goods, materials and supplies, whichever is higher, which shall be creditable against the output tax.
2. ***Presumptive Input Tax Credits.*** Any person or firm engaged in the processing¹⁹³ of sardines, mackerel, and milk, and in manufacturing refined sugar and cooking oil and packed noodle-based instant meals shall be allowed a presumptive input tax creditable against the output tax, equivalent to 4% of the gross value in money of their purchases of primary agricultural products which are used as inputs to his production.

I. COMPLIANCE REQUIREMENTS

1. *Registration for VAT and Non-VAT Taxpayers*¹⁹⁴

Every person subject to any internal revenue tax (VAT and/or Non-VAT taxpayers) shall register each one of his place of business or establishment with the appropriate Revenue District Officer (RDO).

¹⁹¹ *Ibid.*

¹⁹² Sec. 111, *supra*.

¹⁹³ The term “processing” shall mean pasteurization, canning and activities which through physical or chemical process alter the exterior texture or form or inner substance of a product in such manner as to prepare it for special use to which it could not have been put in its original form or condition. [Sec. 111(b), *supra*.]

¹⁹⁴ Sec. 236, *supra*.

An annual registration fee in the amount of PhP500 each for every separate or distinct establishment or place of business, including facility types where sales transactions occur shall be paid upon registration, and every year thereafter on or before the last day of January. Any person commencing a business must pay the fee before engaging therein. However, individuals engaged in business where the gross sales or receipts do not exceed PhP100,000 during any 12-month period and cooperatives other than electric cooperatives are not required to pay the registration fee imposed in RR 16-2005.

A person who maintains a head office, branch or facility shall register with the RDO having jurisdiction over the head office, branch or facility. The registration fee shall be paid to an authorized agent bank located within the revenue district, or to the Revenue Collection Officer, or duly authorized Treasurer of the city or municipality where each place of business or branch is registered.

A non-VAT taxpayer whose gross sales or receipts in any 12-month period exceeds the amount prescribed under Sec. 109(W) of the NIRC for exemption from the VAT shall register as a VAT taxpayer and pay the annual registration fee mentioned above within ten (10) days after the end of the last month of that period and shall be liable to the VAT commencing from the first day of the month following his/her registration.

a. Optional Registration¹⁹⁵

The following VAT-exempt or zero-rated transactions may be registered under VAT not later than 10 days before the beginning of a taxable quarter and shall pay the registration fee prescribed above:

- (1) Any person who is VAT-exempt under Sec. 4.109-1(B)(1)(V) of RR 16-2005 not required to register for VAT may, in relation to Section 4.109-2, elect to be VAT registered by registering with the RDO that has jurisdiction over the head office of that

¹⁹⁵ Sec. 236(H), *supra*.

person, and pay annual registration fees of PhP500 for every separate and distinct establishment.

- (2) Any person who is VAT-registered but enters into a transaction which is exempt from VAT (mixed transactions) may opt that the VAT apply to his transaction which would have been exempt under Section 109(1) of the NIRC.
- (3) Franchise grantees of radio and/or television broadcasting whose annual gross receipts of the preceding year do not exceed PhP10 million derived from the business covered by the law granting the franchise may opt for VAT registration. This option, once exercised shall be irrevocable. (Section 119, Tax Code)

Any person who is not required to register but opts to register shall not be allowed to cancel his/her registration for the next three (3) years.

2. *Withholding of Value-Added Tax*¹⁹⁶

The government or any of its political subdivisions, instrumentalities or agencies, including government-owned or -controlled corporations (GOCCs) shall, before making payment on account of each purchase of goods and services which are subject to VAT imposed in Sections 106 and 108 of the NIRC, deduct and withhold a final VAT at the rate of 5% of the gross payment thereof.¹⁹⁷

¹⁹⁶ Sec. 114(C), *supra*.

¹⁹⁷ The 5% final VAT withholding rate shall represent the net VAT payable of the seller. The remaining 7% effectively accounts for the standard input VAT for sales of goods or services to government or any of its political subdivisions, instrumentalities or agencies including GOCC's, in lieu of the actual input VAT directly attributable or ratably apportioned to such sales. Should actual input VAT attributable to sale to government exceeds 7% of gross payments, the excess may form part of the sellers' expense or cost. On the other hand, if actual input VAT attributable to sale to government is less than 7% of gross payment, the difference must be closed to expense or cost. [Sec. 4.114-2 (a), RR 4-2007]

In addition, the government or any of its political subdivisions, instrumentalities or agencies, including GOCCs, as well as private corporations, individuals, estates and trusts, whether large or non-large taxpayers, shall withhold 12% VAT with respect to the following:

- a. Lease or use of properties or property rights owned by non-residents;
- b. Services rendered to local insurance companies, with respect to reinsurance premiums payable to non-residents; and
- c. Other services rendered in the Philippines by non-residents.

The payor or person in control of the payment shall be the withholding agent. The tax so withheld shall be remitted within 10 days following the end of the month the withholding was made.

3. *Invoicing Requirements*¹⁹⁸

All VAT-registered persons who sell, barter or exchange goods, properties or services shall issue a VAT invoice or receipt indicating therein, among others, the following information:

- a. A statement that the seller is a VAT-registered person, followed by his taxpayer's identification number (TIN);
- b. Total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT:
Provided, That:
 - (1) The amount of the tax shall be shown as a separate item in the invoice or receipt¹⁹⁹;

¹⁹⁸ Sec. 113(A) and (B), *supra*.

¹⁹⁹ Failure or refusal to comply with the requirement shall, upon conviction, for each act or omissions, be punished by a fine not less than PhP1,000 but not more than PhP50,000 and suffer imprisonment of not less than two (2) years but not more than four (4) years. (Sec. 2, RR 18-2011)

- (2) If the sale is exempt from VAT or zero-rated, the term VAT-exempt or zero-rated sale shall be written or printed prominently on the invoice or receipt; and
 - (3) If the sale involves goods, properties or services some of which are subject to VAT and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the breakdown of the total amount of sale between its taxable, exempt and zero rated components, and the calculation of the VAT on each portion of the sale: *Provided*, That the seller may issue separate invoices or receipts for the taxable, exempt and zero-rated components of the sale.
- c. The date of transaction, quantity, unit cost and description of the goods or properties or nature of service; and
 - d. In the case of sales in the amount of PhP1,000 or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and the TIN of the purchaser, customer or client.

4. Accounting Requirements²⁰⁰

In addition to the regular accounting records required, all VAT taxpayers shall maintain a subsidiary sales journal and subsidiary purchases journal on which the daily sales and purchases are recorded.

5. Return and Payment of Value-Added Tax²⁰¹

Every person liable to pay the VAT shall file a quarterly return of the amount of his gross sales or receipts within 25 days following the close of each taxable quarter prescribed for each taxpayer with an

²⁰⁰ Sec. 113(C), *supra*.

²⁰¹ Sec. 114, *supra*.

authorized agent bank, Revenue Collection Officer or duly authorized city or municipal Treasurer in the Philippines located within the revenue district where the taxpayer is registered or required to register. The VAT-registered persons shall pay the VAT on a monthly basis on the taxable sales/receipts for the month, using the VAT declaration form within 20 days after the end of each month: *Provided, however,* That with respect to taxpayers who availed of the electronic filing and payment system (EFPS), the taxpayers classified under the following business industries shall be required to file monthly VAT declarations on or before the dates prescribed as follows:

Group A – 25 days following the end of the month

1. Insurance and pension funding
2. Activities Auxiliary to Financial Intermediation
3. Construction
4. Water Transport
5. Hotels and restaurants
6. Land Transport

Group B – 24 days following the end of the month

1. Manufacture and Repair of Furniture
2. Manufacture of basic Metals
3. Manufacture of Chemical and Chemical Products
4. Manufacture of Coke, Refined Petroleum and Fuel Products
5. Manufacture of Electrical Machinery and Apparatus N.E.C.
6. Manufacture of Fabricated Metal Products
7. Manufacture of Food, Products and Beverages
8. Manufacture of Machinery and Equipment N.E.C.
9. Manufacture of Medical, Precision and Optical Instruments
10. Manufacture of Motor Vehicles, Trailers and Semi-Trailers
11. Manufacture of Office, Accounting and Computing Machinery
12. Manufacture of Other Non-Metallic Mineral Products
13. Manufacture of Other Transport Equipment
14. Manufacture of Other Wearing Apparel
15. Manufacture of Paper and Paper Products

16. Manufacture of Radio, TV & Communication Equipment/ Apparatus
17. Manufacture of Rubber and Plastic Products
18. Manufacture of Textiles
19. Manufacture of Tobacco Products
20. Manufacture of Wood and Wood Products
21. Manufacturing N.E.C.
22. Metallic Ore Mining
23. Non-Metallic Mining/Quarrying

Group C – 23 days following the end of the month

1. Retail Sale
2. Wholesale Trade and Commission Trade
3. Sale, Maintenance, Repair of Motor Vehicle, Sale of Automotive Fuel
4. Collection, Purification and Distribution of Water
5. Computer and Related Activities
6. Real Estate Activities

Group D – 22 days following the end of the month

1. Air Transport
2. Electricity, Gas, Steam, and Hot Water Supply
3. Postal & Telecommunications
4. Publishing, Printing & Reproduction of Recorded Media
5. Recreational, Cultural and Sporting Activities
6. Recycling
7. Renting of Goods and Equipment
8. Supporting and Auxiliary Transport Activities

Group E – 21 days following the end of the month

1. Activities of Membership Organizations Inc.
2. Health and Social Work

3. Public Administration & Defense Compulsory Social Security
4. Research and Development
5. Agricultural, Hunting and Forestry
6. Farming of Animals
7. Fishing
8. Other Service Activities
9. Miscellaneous Business Activities
10. Unclassified

It is reiterated and clarified, however, that the return for withholding of VAT shall be filed on or before the 10th day of the following month, which is likewise the due date for payment. To erase any doubt and to ensure receipt by the BIR before midnight of the due dates prescribed above for the filing of a return, the electronic return shall be filed on or before 10:00 p.m. of the above prescribed due dates.

Any person whose registration has been cancelled in accordance with Section 236 shall file a return and pay the tax due thereon within 25 days from the date of cancellation of registration. Only one consolidated return shall be filed by the taxpayer for his principal place of business or head office and all branches.

The VAT on the importation of goods is paid before the release of such goods from Customs custody.²⁰²

J. CLOSURE OF BUSINESS ESTABLISHMENT²⁰³

The BIR Commissioner or his duly authorized representative may order the suspension of the business operations, and temporarily close the business establishment of any person for a period of not less than 5 days for any of the following violations:

²⁰² Sec. 107, *supra*.

²⁰³ Sec. 115, *supra*.

- a. Failure to register with the appropriate RDO;
- b. Failure to issue receipts or invoices;
- c. Failure to file a VAT return; or
- d. Understatement of taxable sales or receipts by 30% or more of his correct taxable sales or receipts for the taxable quarter.

