

Tax Implications of Republic Act No. 11525^{*1}

I. FEATURES

RA 11525, otherwise known as the “COVID-19 Vaccination Program Act of 2021”, adopted an integrated approach to health development to make available essential social services to all people at affordable cost. It was enacted to establish the Coronavirus Disease 2019 (COVID-19) Vaccination Program to expedite the vaccine procurement and administration process and provided funds therefor.

The law had the following objectives:

- a. Address the adverse impact of COVID-19 through the procurement and administration of safe and effective COVID-19 vaccines by the National Government through the Department of Health (DOH) and the National Task Force against COVID-19 (NTF) and other duly constituted authorities and instrumentalities;
- b. Source and procure through the DOH and the NTF, either through themselves jointly or in cooperation with any national government agency or instrumentality or local government unit, safe and effective COVID-19 vaccines;
- c. Recognize the experimental nature of COVID-19 vaccines available in the market and compensate for any serious adverse effects (SAEs) arising from the use of the COVID-19 vaccine experienced by people inoculated through the COVID-19 Vaccination Program; and
- d. Creation of a COVID-19 National Vaccine Indemnity Fund to be administered by the Philippine Health Insurance Corporation (PhilHealth) to compensate persons encountering SAE pursuant to the preceding paragraph.

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¹ Entitled, “An Act Establishing the Coronavirus Disease 2019 (COVID-19) Vaccination Program Expediting the Vaccine Procurement and Administration Process, Providing Funds Therefor, and for Other Purposes”, (February 26, 2022).

The law also provided for the exemption from import duties, taxes, and other fees for the procurement, deployment, and administration of COVID-19 vaccines. Beginning January 1, 2021, the procurement, importation, donation, storage, transport, deployment, and administration of COVID-19 vaccines through the COVID-19 Vaccination Program by the government or any of its political subdivisions and by the private entities are exempt from customs duties, value-added tax (VAT), excise tax, donor's tax, and other fees, provided that the vaccines are not be intended for resale or other commercial use and distributed without consideration from persons to be vaccinated.

II. IMPLICATIONS

As provided under Section 11 of RA 11525, beginning January 1, 2021 and during the period of the state of calamity as declared under Proclamation No. 1021 dated September 16, 2020, issued by the President of the Philippines, the procurement, importation, donation, storage, transport, deployment, and administration of COVID-19 vaccine through the COVID-19 Vaccination Program by the following entities shall be exempt from the VAT, excise tax, and donor's tax and other fees subject to the guidelines, procedures, and requirements provided under Revenue Regulations (RR) No. 1-2021², viz.:

- a. The National Government, through the DOH and the NTF;
- b. Any of the political subdivisions of the State; and
- c. Private entities and international humanitarian organizations, such as the Philippine Red Cross.

In compliance with the exemptions given to the above-mentioned entities, the following guidelines and procedures shall be followed and observed:

- a. No VAT shall be imposed on the procurement of COVID-19 vaccines. Hence, VAT shall not be part of the contract price for the procurement of the COVID-19 vaccines.
- b. No VAT and excise taxes shall be imposed on the importation of COVID-19 vaccines.
- c. The importation of COVID-19 vaccines shall not be subject to the issuance of an Authority to Release Imported Goods (ATRIG) under Revenue Memorandum Order (RMO) No. 35-2002³, as amended; and may be released by the Bureau of

² Subject, "Implementing the Tax Incentives and Fee Privileges for the Procurement, Importation, Donation, Storage, Transport, Deployment and Administration of the Coronavirus Disease 2019 (COVID-19) Vaccines Under Section 11 of Republic Act No. 11525, otherwise known as the "COVID-19 Vaccination Program Act of 2021", (April 8, 2021).

³ Subject, "Prescribing the Guidelines and Procedures in the Processing and Issuance of AUTHORITY TO RELEASE IMPORTED GOODS (ATRIG) for Excise and Value-Added Tax Purposes", (December 11, 2002).

Customs (BOC) without the need of an ATRIG. However, the Bureau of Internal Revenue may conduct a post-investigation/audit on the importations released by the BOC without ATRIG pursuant to RR 1-2021.

- d. No VAT shall be imposed by the service providers on the services to be rendered to these entities for the storage, transport, deployment, and administration of the COVID-19 vaccines. Hence, the VAT shall not form part of the contract price for these entities' engagement/procurement of such services.
- e. No donor's tax shall be imposed on the donation of the COVID-19 vaccines to these entities, subject to the ordinary rules of deductibility as provided for in Section 34(H) of the National Internal Revenue Code (NIRC) of 1997, as amended, and its existing rules and regulations, if applicable.
- f. The tax incentives shall only be applicable if the vaccines are not intended for resale or other commercial use and shall be distributed without any consideration from persons to be vaccinated.

The grant of exemption for the importation of COVID-19 vaccines, engagement of services for the storage, deployment, and administration, as well as the donation of the COVID-19 vaccines, was deemed in effect beginning January 1, 2021. Since the implementing rules and regulations (IRR) of the tax incentives and fee privileges were only issued on April 8, 2021, through RR 1-2021, the VAT on all covered and qualified shipments/importations/services that may have been paid from January 1, 2021, until the effectivity of RR 1-2021, shall be refunded under Section 204(C) of the NIRC of 1997, as amended, in accordance with existing rules and procedures for the refund of VAT on importations/services, provided that the input tax on imported items/services have not been reported and claimed as an input tax credit in the monthly and/or quarterly VAT returns. Likewise, the same shall not be allowed as input tax credit pursuant to Section 220 of the NIRC of 1997, as amended, for purposes of computing the VAT payable of the concerned taxpayer/s for the said period.

Similarly, excise tax and donor's tax on all covered and qualified transactions that may have been paid from January 1, 2021 until the effectivity of RR 1-2021, shall be refunded pursuant to Section 204(C) of the NIRC of 1997, as amended, and its IRR.

According to the DOH, the estimated cost that the government will spend per person for the vaccination program was an average composite cost of around P1,300, which included vaccine cost (assuming a two-dose requirement) and ancillaries.⁴ The government planned to vaccinate all eligible Filipinos for free, starting at 50 to 70 million in 2021. Eligibility would depend on the vaccines available, specifications for their allowable use, as well as the scope of use authorized by the Philippine Food and Drug Administration.

⁴ DOH. (2021). How much is the cost or what is the price range for each available vaccine? <https://doh.gov.ph/node/28134>

As of December 31, 2021, the Philippine government had exceeded its 70 million target by 55.32%, with the total dose administered at 108.73 million, including those who have been administered their first dose. (See Table 1.)

Table 1

Statistics on COVID-19 Vaccination as of December 31, 2021

Indicators	Count	Distribution (%)	Ratio to the 70 million target (%)
Total number of doses administered	108,726,034	100.00	155.32
Number of first doses administered	57,139,221	52.55	
Number of complete doses administered	49,779,978	45.78	73.70
Number of booster shots administered	1,806,835	1.66	

Note. Data gathered from the DOH, 2021.

As of February 28, 2022, the Philippine government had administered additional 31.4 million doses, or a total of 140.1 million doses, broken down as follows:

Table 2

Statistics on COVID-19 Vaccination, as of February 28, 2022

Indicators	Count	Distribution (%)
Total number of doses administered	140,080,149	100.00
Number of first doses administered	62,043,772	44.29
Number of complete doses administered	65,341,420	46.65
Number of booster shots administered	12,694,957	9.06

Note. Data gathered from the DOH, 2022

Based on the available charter agreement numbers⁵ provided by the DOH through the Electronic Freedom of Information (eFOI) platform⁶, the estimated revenue foregone from the procured COVID-19 vaccines' exemption from VAT would have amounted to P26.40 million based on the total contract amount from said procurement of P220 million. Since the available data did not capture all the procured COVID-19 vaccines, the total VAT revenue foregone would be much higher than the estimated P26.40 million.

⁵ Charter Agreement Numbers: 2021/C-001 to C-004; GOP-C-2021-187; GOP-C-2021-241; GOP-C-2021-181; and GOP-C-2022-166.

⁶ eFOI. (2022). Importation of COVID-19 Vaccines, Equipment. <https://www.foi.gov.ph/requests/aglzfmb2kGhyHQsSB0NvbnRlbnQiEERPSC0xNzU4NjIwMjIzMTUM>