BUREAU OF INTERNAL REVENUE
RECORDS MANAGEMENT DIVISION
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Republic of the Philippines
Department of Finance
BUREAU OF INTERNAL REVENUE
National Office Building

Bringing In Revenues for Nation-building

AUG 21 2024

REVENUE MEMORANDUM CIRCULAR NO. 116-2024

SUBJECT : Clarifying the Provisions of Republic Act No. 11976, or Otherwise Known as the "Ease of Paying Taxes Act", Applicable to the Power Industry

TO : All Internal Revenue Officers And Others Concerned

This Revenue Memorandum Circular is issued in order to publish and clarify certain provisions of Revenue Regulations (RR) Nos. 3-2024 and 7-2024, implementing the National Internal Revenue Code of 1997 (Tax Code), as amended by Republic Act (RA) No. 11976 or otherwise known as the "Ease of Paying Taxes (EOPT) Act", affecting generation, transmission, and distribution companies, as well as electric cooperatives and retail electricity suppliers.

Q1: What is the tax treatment of the Generation and Transmission charges including the VAT thereon which are pass through charges of the Distribution Utility (DUs) Companies and Electric Cooperatives (ECs)?

A1: For sale of services, including the sale of power, gross sales of DUs and ECs shall exclude the value-added tax and those amounts earmarked for payment to third (3rd) party or received as reimbursement for payment on behalf of another which do not redound to the benefit of the seller as provided under relevant laws, rules or regulations.

The DUs and ECs shall issue an invoice to the customers, which shall include the sale and transmission of electricity and ancillary services, including the VAT thereon of the Generation Companies (GenCos) and Transmission Companies (e.g. National Grid Corporation of the Philippines). However, the DUs and ECs shall not claim any input tax from these. The proper claimant of input tax shall be the customers engaged in business based on the invoice to be issued by DUs/ECs.

The amount invoiced by the GenCos and Transmission Companies, which was included in the invoice issued by the DUs and ECs to the customers, including the

VAT charges thereon, shall be the basis of income tax and VAT liabilities of the GenCos and Transmission Companies.

Q2: What are the pass-through charges for the Retail Electricity Supplier (RES) and how are they treated?

A2: The pass-through charges of the RES for the sale of power are the transmission and distribution charges.

The RES shall not claim any input tax on the pass-through charges invoiced to the customers.

Q3: Are the government mandated charges subject to Output Tax and consequently on Creditable Withholding on VAT and Income?

A3: The following mandated government charges shall not be subject to Output Tax and Creditable Withholding Tax on VAT and Income:

1. Energy Tax under Batas Pambansa Blg. 36;
2. Universal Charges (UC) under Sec. 34 of R.A. No. 9136 (EPIRA);
3. Benefits to Host Communities under Sec. 66 of R.A. 9136 (EPIRA) and DOE Energy Regulations No. 1-94;
4. Feed-in Tariff Allowance (FIT-ALL) under ERC Res. 24, Series of 2013;
5. National and Local Franchise Taxes under Section 9 of RA No. 9511 and Art. III of ERC Res. No. 02, Series of 2021, respectively; and
6. Real Property Tax (RPT) under Art. II of ERC Res. No. 02, Series of 2021.

Q4: What is the treatment of the 5% creditable VAT withheld by the government customers?

A4: The amount of 5% creditable VAT withheld by the government customers which was computed based on the total invoiced amount, including pass through charges, shall be claimed as creditable VAT as evidenced by BIR Form No. 2307 in the VAT Returns of the DUs and ECs who issued the invoice on the sale of electricity.

Q5: What is the treatment of the 2% income tax withheld by the customers engaged in business?

A5: The amount of 2% tax withheld by customers engaged in business which was computed based on the total invoiced amount, including pass through charges, shall be claimed as creditable withholding tax as evidenced by BIR Form No. 2307 in the Income Tax Return of the DUs, ECs and RES who issued the invoice on the sale of electricity.

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Q6: How will the GenCos and Transmission Companies declare the VAT on its generation and transmission fees, respectively, considering the various types of customers/end-users (i.e. vatable, zero-rated, exempt)?

A6: Initially, the GenCos and Transmission Companies will issue an invoice to the DUs, ECs, and RES for the whole amount of the generation fees and transmission fees, respectively, including the VAT thereon for the billing period.

The DUs, ECs and RES shall provide the certification of zero-rated/exempt transactions (***Refer to Annex A)*** to the GenCos and Transmission Companies on or before the 5th day of the month following the invoice period.

The GenCos and Transmission Companies will then issue the applicable adjustment documents (i.e. Debit Memo/Note; Credit Memo/Note; Journal Voucher; or Negative Invoice) which may be generated from their Computerized Accounting System or prepared manually to adjust the output tax liability charged on the zero rated and exempt transactions considering that the output VAT on such was already included in the invoice issued by the GenCos and Transmission Companies.

Q7: What is a negative VAT invoice?

A7: For purposes of Q6 above, a negative VAT invoice issued by GenCos and Transmission Companies reflects the negative adjustment on the output tax initially charged. Said negative VAT invoice or other adjustment documents issued should indicate the original invoice number of the invoice/transactions being adjusted.

Illustration:

GenCo ABC Corporation issued an invoice for the generation fees sold for the billing period April 26, 2024 to May 25, 2024, as shown below:

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ABC Corporation
Agham Road, Diliman, Quezon City
VAT Reg. TIN: 000-123-456-0000

INVOICE

Sold to: XYZ Corporation
TIN: 000-987-654-0000
Address: Ayala Avenue, Makati City

No. 200000051
Date: May 30, 2024
Terms: 30 days

PARTICULARS	AMOUNT
Billing for the period April 26, 2024 to May 25, 2024 (8,411,809.01 kWh)	Php 28,846,102.61
VATable Sales	25,755,448.76
VAT-exempt Sales	0.00
Zero Rated Sales	0.00
VAT Amount	3,090,653.85
TOTAL AMOUNT DUE	Php 28,846,102.61

Authorized Representative

BIR Permit to use no.. 1907_0121_PTU_CAS_0001
Effectivity Date: July 16, 2020 Valid Until: July 15, 2025
Approved Series: 200000001 - 299999999
This is a BIR approved system generated report.

The DU, XYZ Corporation, will then provide ABC Corporation the *Certification of Zero-rated/Exempt transactions* to ABC Corporation on or before June 5, 2024, as shown below:

DISTRIBUTION UTILITIES/ELECTRIC COOPERATIVES/RES
Summary of Zero-Rated and Exempt Customers
For the Supply Period of April 26, 2024 to May 25, 2024 (SI No. 200000051)
XYZ Corporation

INVOICE NO	NAME OF CUSTOMER	TIN	TAX BASE		EQUIVALENT VAT
			ZERO-RATED	EXEMPT	
5000032	End User 1	000-000-001	178,571.43		21,428.57
5000045	End User 2	000-000-002		267,857.14	32,142.86
5000052	End User 3	000-000-003	133,928.57		16,071.43
5000056	End User 4	000-000-004	111,607.14		13,392.86
5000102	End User 5	000-000-005		145,535.71	17,464.29
5000152	End User 6	000-000-006	85,299.09		10,235.89
5000164	End User 7	000-000-007	158,928.57		19,071.43
5000170	End User 8	000-000-008		339,285.71	40,714.29
5000175	End User 9	000-000-009	107,142.86		12,857.14
5000189	End User 10	000-000-010		223,214.29	26,785.71
TOTAL			775,477.66	975,892.86	210,164.46

Certified by:

AUTHORIZED REPRESENTATIVE

After which, ABC Corporation will issue a "negative invoice" to reflect the adjustments on VAT, as illustrated below:

ABC Corporation
Agham Road, Diliman, Quezon City
VAT Reg. TIN: 000-123-456-0000

INVOICE

Sold to: XYZ Corporation
TIN: 000-987-654-0000
Address: Ayala Avenue, Makati City

No. 200000056
Date: June 10, 2024
Terms: 30 days

PARTICULARS	AMOUNT
Billing adjustment for the period April 26, 2024 to May 25, 2024	0.00
(in reference to Invoice No. 200000051)	
VATable Sales	Php (1,751,370.52)
VAT-exempt Sales	975,892.86
Zero Rated Sales	775,477.66
VAT Amount	(210,164.46)
TOTAL AMOUNT DUE	Php (210,164.46)

Authorized Representative

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Note: The invoices shown above are for illustrative purposes only.

Q8: What is the treatment of the payments made by DUs, ECs and RES to GenCos and Transmission Companies representing generation, transmission and other power related charges?

A8: All payments by DUs, ECs and RES to the GenCos and Transmission Companies pertaining to generation, transmission and other VATable charges shall be subject to VAT, hence payment shall include the VAT thereon.

Q9: Will GenCos and Transmission Companies be liable to the remittance of all outstanding deferred VAT from DUs and ECs prior to April 27, 2024 or the effectivity of the RR Nos. 3-2024 and 7-2024?

A9: No. GenCos and Transmission Companies shall not be liable to the remittance of all outstanding deferred VAT from the effectivity of the RR No. 3-2024 on April 27, 2024.

However, as a transitory procedure, the BIR shall require the following:

1. GenCos and TransCo shall submit (hard copy and soft copy), to the concerned Revenue District Offices (RDOs)/Large Taxpayers (LT) Offices, on or before September 30, 2024, an inventory of the outstanding deferred VAT prior to April 27, 2024 from DUs/ECs and others. Refer to Annex "B" for the format.

2. DUs and ECs shall remit the deferred VAT, as collected, on behalf of each GenCos and Transmission Companies, using BIR Form No. 0605. The TIN of the GenCos and TransCo shall be clearly indicated on the BIR Form No. 0605. Mark "X" the box for "Others (Specify)" and indicate that the payment is for "DEFERRED VAT – RMC No. ____".

3. DUs/ECs shall submit (hard copy and soft copy) to the concerned RDOs/LT Offices, on or before the 10th day from the date of remittance of the BIR Form No. 0605, a Summary of the Remittance of Deferred VAT, clearly indicating the name of Supplier, Address, TIN, RDO No., amount of VAT remitted, billing period, name of bank and date of remittance. Refer to Annex "C" for the format.

4. DUs/ECs shall provide the GenCos and Transmission Companies with copies of the duly filed BIR Form No. 0605, together with the proof of payment within three (3) days from the date of remittance to the BIR. The same shall be the basis of the Generation and Transmission Companies for the issuance of the invoice in accordance with the transitory provision of RR No. 7-2024 and to record the payment of deferred VAT. The unremitted portion of the deferred VAT prior to April 27, 2024, if any, shall remain outstanding until fully collected or closure of the BIR audit of the power industry players.

All other revenue memorandum circulars and rulings inconsistent herewith are hereby amended, modified or repealed accordingly.

All internal revenue officers and employees are hereby enjoined to follow, observe and give this Revenue Memorandum Circular as wide publicity as possible.

This Circular shall take effect immediately.

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ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue