REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

November 27, 2020

REVENUE MEMORANDUM ORDER NO. 41-2020

SUBJECT: Processing of Claims for Value-Added Tax (VAT) Refund of Resident Foreign Missions, their Qualified Personnel and the Personnel's Dependents, Amending for this Purpose Revenue Memorandum Order (RMO) No. 10-2019 and Other Pertinent Revenue Issuances

TO: All Internal Revenue Officials, Employees and Others Concerned

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I. OBJECTIVE

This Order is issued to clarify the policies and procedures governing the claims for VAT refund of:

(a) resident foreign missions (RFMs),[1] their qualified personnel including the personnel's qualified dependents whose VAT privileges were transitioned from point-of-sale VAT exemption under Revenue Memorandum Order (RMO) No. 22-2004 into VAT refund under RMO No. 10-2019; and,
(b) RFMs, their qualified personnel including the personnel's qualified dependents who were granted point-of-sale VAT exemption but were not accorded such privilege by the transacting business establishments.

II. LEGAL BASIS

The grant of VAT exemption to RFMs, their diplomatic personnel and the personnel's dependents is based on the Vienna Convention on Diplomatic Relations, Vienna Convention on Consular Relations and the principles of international comity and reciprocity, which were adopted as part of the law of the land pursuant to Article II, Section 2 of the 1987 Philippine Constitution.

Pursuant to the said international law principles, the Philippines, through the Bureau of Internal Revenue (BIR), may grant VAT privileges to an RFM, its qualified personnel and the personnel's dependents on their local purchases of goods and/or services, subject to a categorical confirmation from the Office of Protocol of the Department of Foreign Affairs (DFA-OP) that the foreign government accords the same VAT privileges to the Philippine Foreign Service Post (PFSP) and its personnel on their purchases of goods and services in the concerned foreign country.

All business establishments are, therefore, directed to honor and recognize the VAT Certificate or VAT Identification Card issued by the BIR to the RFMs, their qualified personnel and the personnel's dependents when presented by them at the point of sale, irrespective of

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[1] RFM is either an embassy or a consulate, and includes the Taipei Economic Cultural Office (TECO) in Manila

whether the purchase was made online, and to accord them the VAT exemption privileges to which they are entitled, following the procedures cited under paragraph V(B) of RMO No. 10-2019.

III. INVOICING REQUIREMENTS

Section 113(B) of the National Internal Revenue Code (Tax Code), as amended, provides for the information that shall be indicated in the VAT invoice/official receipt, to wit:

> **SEC. 113.** ***Invoicing and Accounting Requirements for VAT-Registered Persons.*** –
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> (B) Information Contained in the VAT Invoice or VAT Official Receipt. - The following information shall be indicated in the VAT invoice or VAT official receipt:
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> (1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN); and
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> (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax. Provided, That:
>
> (a) The amount of the tax shall be known as a separate item in the invoice or receipt;
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> (b) If the sale is exempt from value-added tax, the term VAT-exempt sale: shall be written or printed prominently on the invoice or receipt;
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> (c) If the sale is subject to zero percent (0%) value-added tax, the term "zero-rated sale" shall be written or printed prominently on the invoice or receipt.
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> (d) If the sale involved goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be known on the invoice or receipt: Provided, That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.
>
> (3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and
>
> (4) In the case of sales in the amount of One thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client.

Under paragraph Section 113(B)(4), it is only when the purchaser of goods and services is a VAT-registered person and the amount of purchase is ₱1,000 or more that the VAT invoice/official receipt must contain the name, business style, if any, address and TIN of the purchaser.

Since the RFMs, their qualified personnel and the personnel's dependents are <u>not</u> VAT-registered taxpayers, the VAT invoice/official receipt that must be presented when claiming VAT refunds need not contain the name, address and TIN of the purchaser. However, to verify that the purchases are official in the case of the RFMs or personal in the case of the RFM's personnel and his/her qualified dependents, the purchaser must present an invoice/official receipt, be it manual, electronic, loose-leaf or generated from a BIR-registered CRM/POS that is capable of encoding the information of the buyer in the invoice/receipt (tape receipt/invoice), containing at least the name of the purchaser for cash transactions. The BIR would also consider as sufficient evidence any tape receipt/invoice issued by the business establishment

reflecting the claimant's name through the use of membership/loyalty card. The personal information reflected in the sales invoice/official receipt must be sufficient to establish the identity of the claimant.

For credit transactions, on the other hand, a tape receipt/invoice generated from a BIR-registered CRM/POS that is not capable of encoding the purchaser's information would suffice, provided the transaction is supported by a credit card slip issued by the business establishment upon purchase and statement of account issued by the bank to the credit card holder.

If the transaction is on cash basis and the CRM/POS is not capable of encoding the purchaser's information, the business establishments shall issue a manual receipt, in lieu of the tape receipt, bearing the purchaser's information. In this regard, the business establishments shall always keep and maintain BIR-registered manual receipts/invoices.

For online transactions, the claimant must likewise secure the same receipts as discussed above. The claimant is hereby advised not to transact with business establishments that cannot issue BIR-registered receipts/invoices.

IV. DOCUMENTARY REQUIREMENTS

Each application or claim for VAT refund, i.e., per claimant, must be accompanied by the following documents:

1. For purchase of goods and services, including leases of property

    i. Letter-request;
    ii. Duly accomplished BIR Form No. 1914;
    iii. Summary of claims which must indicate the following details:
        a. Date and amount of purchases
        b. Name of supplier and Taxpayer Identification Number
        c. Amount of claim
    iv. Original and photocopy of the sales invoices/official receipts;
    v. Photocopy of the lease contract for the leased premises of the RFMs or residences of the heads of mission and other diplomatic personnel, and the associated utility charges;
    vi. Sworn certification executed before a notary public or a consular officer with notarial capacity, which shall state the authenticity of the submitted documents and that no tax refund involving the same transactions has previously been instituted by the claimant; *or* in case of previously denied claims, the fact of denial and the reason therefor shall be so stated;
    vii. Photocopy of VAT Certificate/VAT Identification Card/BIR Ruling confirming entitlement of the claimant to VAT refund; and
    viii. Authorization letter and valid identification card if the filer is other than the claimant.

With respect to utility charges associated with the leased premises, the claimant must present an official receipt issued under its/his/her name. For this purpose, the utility companies are hereby instructed to issue a receipt bearing the name of the claimant upon presentation of the duly executed contract of lease. However, if the utility charges are paid via credit card and

other online payment platforms (e.g. GCash, PayMaya, etc.), the presentation of the proof of payment and the statement of account, if applicable, would already suffice.

2. For purchase of motor vehicle

   i. Letter-request;
   ii. Duly accomplished BIR Form No. 1914;
   iii. Original and photocopy of sales invoice;
   iv. Photocopy of BIR ruling exempting the purchase of motor vehicle from VAT and ad valorem taxes;
   v. Photocopy of the DFA ID of the claimant;
   vi. Authorization letter and valid identification card if the filer is other than the claimant.

V. PROCEDURES

The usual procedures for the processing of claims for VAT refund of VAT-registered taxpayers shall not apply to the RFMs, their qualified personnel and the personnel's dependents because of their unique situation, as follows:

i. Their exemption is based on a convention to which the Philippines is a signatory, or based on reciprocity and international comity, and therefore, the Philippines is expected to faithfully and timely comply with its treaty obligations under the principle of *pacta sunt servanda*;
ii. The claimants are not VAT-registered taxpayers; and,
iii. Existing revenue issuances on the processing of claims for VAT refund exclude from their coverage those under the jurisdiction of the Legal Service,[2] where the International Tax Affairs Division (ITAD), the office that processes the VAT exemptions of RFMs, their qualified personnel and the personnel's dependents *via* issuance of VAT Certificate or VAT Identification Card, belongs.

Instead, the following procedures shall apply and be followed:

A. Filing a claim for refund

1. All claims for refund must be filed within the two (2)-year prescriptive period set forth under Section 229 of the 1997 Tax Code, as amended. The claims shall also be processed within a ninety (90)-day period.
2. The claimant shall submit the claim for VAT refund, together with the required attachments, to the DFA-OP. All applications of the consulate offices located either in Manila or in the provinces shall be coursed through their respective embassies.
3. The DFA-OP shall then prepare an endorsement within three (3) working days and transmit the same to Revenue District Office (RDO) No. 51 for processing.
4. Upon receipt of the claim, the receiving officer of the RDO shall stamp the date of receipt on the letter-request and shall immediately transmit the complete docket to the Revenue District Officer (head of office).

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[2] See RMC No. 17-2018 dated February 27, 2018

5. The head of office shall immediately assign the case docket to a Revenue Officer (RO) and shall issue a Tax Verification Notice (TVN) to each claimant authorizing the RO to verify the claim.
6. The processing period of **ninety (90) days** shall commence to run upon the issuance of a TVN.

B. Verification of claim for refund

1. The RO shall assess the validity of the claim and evaluate the sufficiency of the submitted requirements. If incomplete, the RO shall immediately inform the claimant of any deficiency in the accompanying requirements, and the latter shall be given a sufficient period of time, which shall not be less than five (5) days but not more than thirty (30) days, to complete the requirements.
2. The head of office may grant, in meritorious cases, a reasonable extension not exceeding thirty (30) days for the submission of the requested documents. If the claimant still fails to substantiate his/her/its claim despite the extension given, the same shall be denied following the procedures set out hereunder for the processing of denied claims.
3. Upon issuance of a "Notice to Submit Additional Documents," the processing period shall be interrupted and shall commence to run again from the submission of the requested documents.
4. The RO shall validate the photocopies of the sales invoices/official receipts from the original copies presented by the claimant and shall ensure that the submitted photocopies are true and faithful reproduction of the originals. In so doing, he/she shall stamp the phrase "VERIFIED FROM ORIGINAL" and sign thereon to certify that no alteration was made to the submitted photocopies. The RO/s shall then prepare a memorandum report recommending the approval/disapproval of the claim for VAT refund, to be reviewed by the head of office. At the RDO level, the claim for refund shall be processed within fifty-five (55) days upon submission of complete requirements.
5. If the recommendation of the RO is approved by the head of office, the case docket, together with original copies of all sales invoices/official receipts, shall be forwarded to Revenue Region (RR) No. 8B for further review by the Assessment Division (AD) and approval by the Regional Director (RD). The AD and RD shall be given fifteen (15) and five (5) days, respectively, to review and act on the claim for refund.
6. The status of the claim for refund shall be communicated in writing to the claimant immediately after the approval of the memorandum report by the RD.

C. Processing of payment of approved claims

1. Once approved, the case docket shall be forwarded by the Office of the RD to the Finance Division (FD) for the processing of the payment, i.e. preparation of the Disbursement Voucher and Budget Utilization Request and Status (BURS). Thereafter, the case docket shall be forwarded to the Administrative and Human Resource Management Division (AHRMD) for the preparation and release of check. From the receipt of the docket, the FD and AHRMD shall be given fifteen (15) days to process the payment of the claim.
2. If the release of the check is not forthcoming before the end of the claimant's tour of duty, he/she shall inform the RDO or RR of such fact and request that

the check be issued in the name of the person duly authorized under a Special Power of Attorney. The AHRMD shall only issue the check to the proper claimant or the duly authorized representative.

3. It shall be the duty of the AHRMD to communicate with the claimant or his/her/its duly authorized representative if the check is now ready for pick-up.
4. Upon the release of the check, the AHRMD shall likewise return to the claimant or the duly authorized representative the original copy of the sales invoices/official receipts after stamping the phrase "VAT Refund Claimed" thereon.
5. The photocopies of the sales invoices/official receipts shall be retained and attached to the docket, while the original copies thereof shall be returned to the claimant on the date of release of the check.

D. Handling of denied claims

1. In case of denial, a Letter of Denial signed by the Regional Director, which shall contain the factual and legal bases that led to the conclusion, shall be issued.
2. All original copies of receipts and/or invoices shall be stamped with the phrase "NOT VALID FOR VAT REFUND" by the RDO upon its receipt of the Letter of Denial signed by the Regional Director to prevent subsequent presentation of the same documents in future claims.
3. Dockets of denied claims shall be transmitted by the AD to the AHRMD for archiving.

E. Refiling of denied claims for refund

1. Depending on the reason for denial, the claimant shall or shall not be allowed to refile a claim for refund that was previously denied.
2. The claimant may refile the claim if it was previously denied for the following reasons only:
   a) Failure to comply with a formality requirement (e.g. the document is not a certified true copy of the original or the document was not notarized, etc.); and
   b) Failure to complete the requirements within a specified period.

   Provided, that the refiling thereof is still within the two (2)-year prescriptive period set forth under Section 229 of the 1997 Tax Code, as amended.

3. However, if the denial was based on the merits of the claim (e.g. the claimant is not exempt from VAT on a particular purchase; or the claimant exceeded the maximum amount of purchase; or the claimant failed to meet the minimum amount of purchase per invoice, etc.), the claimant shall not be allowed to refile.

VI. PENALTY CLAUSE

All concerned revenue officials and employees are enjoined to act on all claims for VAT refund of RFMS, their qualified personnel and the personnel's dependents within the specified periods set forth above. Failure to act on the claim for VAT refund within the prescribed periods shall be a ground for administrative disciplinary action.

Moreover, failure of business establishments to issue a manual receipt when so requested by the purchaser shall be tantamount to refusal to issue receipt or invoices, which is punishable under Section 264 of the Tax Code.

VII. AMENDATORY/REPEALING CLAUSE

The provisions of RMO No. 10-2019, and other pertinent revenues issuances or portions thereof that are inconsistent herewith are hereby repealed, amended or modified accordingly.

VIII. TRANSITORY PROVISION

Upon the effectivity of this Order, all pending applications for VAT refund shall be processed following the procedures set forth under this Order. All claims for refund previously denied for failure to comply with the invoicing requirement, i.e., the sales invoice/official receipt does not bear the name of the taxpayer but may be supported by credit card slips or statement of account, shall be allowed to be refiled provided that the refiling thereof is still within the 2-year prescriptive period set forth under Section 229 of the 1997 Tax Code, as amended.

IX. EFFECTIVITY

This Order shall take effect immediately.

All internal revenue officers and others concerned are hereby enjoined to give this Order the widest dissemination and publicity possible.

(Original Signed)
CAESAR R. DULAY
Commissioner of Internal Revenue