REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
National Office Building
Quezon City

NOV 1 0 2023

REVENUE REGULATIONS NO. 13-2023

SUBJECT: Prescribing Policies and Guidelines for the Optional VAT-Registration of Registered Business Enterprises Classified as Domestic Market Enterprise under the Five Percent (5%) Tax on Gross Income Earned In Lieu of All Taxes Regime During the Transitory Period Pursuant to Rule 18, Section 5 of the Amended Implementing Rules and Regulations of Republic Act No. 11534 or the "Corporate Recovery and Tax Incentives for Enterprises (CREATE) ACT"

TO: All Internal Revenue Officials, Employees and Others Concerned

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SECTION 1. ***Scope.*** – Pursuant to the provisions of Sections 244 and 245 of the Tax Code, these Regulations are hereby promulgated to implement Section 5, Rule 18 of the amended Implementing Rules and Regulations (IRR) of Republic Act No. 11534 or the "Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act," which reads:

"RULE 18. Investments prior to the effectivity of this Act.

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SECTION 5. Non-income related tax incentives. – All registered export and domestic enterprises that will continue to avail of their existing tax incentives subject to Sections 1, 2 and 3 of this Rule, may continue to enjoy the duty exemption, [value-added tax] VAT exemption on importation, and VAT zero-rating on local purchases as provided in their respective [Investment Promotion Agency] IPA registrations; provided that registered export enterprises as defined under Section 293(E) of the Act whose income tax-based incentives have expired, may continue to enjoy VAT zero-rating on local purchases until the electronic sales reporting system of the Bureau of Internal Revenue under Section 237-A of the Act is fully operational, or until the expiration of the transitory period referred to in Section 311(C) of the Act, whichever comes earlier; Provided, further, that an [registered business enterprise] RBE classified as [domestic market enterprise] DME which is located inside the economic or freeport zone during the transitory period will be allowed to register as a VAT taxpayer; Provided, finally, that the duty exemption, VAT exemption on importation, and VAT zero-rating on local purchases shall only apply to goods and services directly attributable to and exclusively used in the registered project or activity of said registered export enterprises." (Underscoring supplied)

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These Regulations are hereby issued to provide guidelines in order for RBEs classified as DMEs during the transitory period to be able to register as VAT-taxpayers with the Bureau of Internal Revenue (BIR).

SECTION 2. ***Optional VAT-registration.*** — 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 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 Annex "A" of these Regulations; and

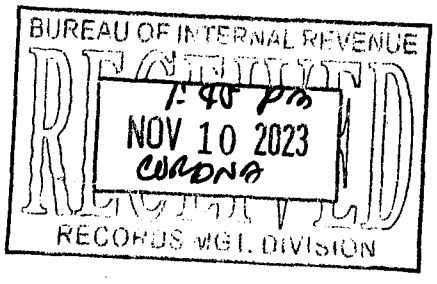
c. Other documents that may be prescribed by the concerned IPA.

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.

SECTION 3. ***Monitoring and Reporting.*** — 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.

SECTION 4. ***Applicability.*** – 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 these Regulations shall not be allowed to claim for VAT refund relating to its transactions prior to the effectivity of the Amended IRR of CREATE.



SECTION 5. ***Repealing/Amendatory Clause.*** — Any rules and regulations, issuances or parts thereof inconsistent with the provisions of these Regulations are hereby repealed, amended or modified accordingly.

SECTION 6. ***Separability Clause.*** — If any of the provisions of these Regulations is subsequently declared unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

SECTION 7. ***Effectivity.*** — This issuance shall take effect immediately following its publication in a newspaper of general circulation or in the Official Gazette, whichever comes first.

BENJAMIN E. DIOKNO
Secretary of Finance

OCT 31 2023

Recommending Approval:

ROMEO B. LUMAGUI, JR.
Commissioner of Internal Revenue
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