REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

DEC 13 2023

REVENUE REGULATIONS NO. 15-2023

SUBJECT : Implementing the Grant of Donor's Tax Exemption on the Donation of Imported Capital Equipment, Raw Materials, Spare Parts, or Accessories Directly and Exclusively Used by Registered Business Enterprises Under Section 295 (C)(2)(e) of the National Internal Revenue Code of 1997, as amended.

TO : All Internal Revenue Officers and Others Concerned

SECTION 1. *Scope*. - Pursuant to Sections 244 and 245 of the National Internal Revenue Code of 1997 (Tax Code), as amended, these Regulations are hereby promulgated to implement the donor's tax exemption provision under Section 295 (C)(2)(e) in relation to Section 101 (A)(2) of the Tax Code, as amended by RA No. 11534, otherwise known as the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act.

SECTION 2. *Coverage*. - These Regulations cover the grant of donor's tax exemption on the transfer of imported capital equipment, raw materials, spare parts, or accessories directly and exclusively used in the registered project or activity by registered business enterprises of any existing Investment Promotion Agencies.

SECTION 3. *Definitions*. - As used in these rules and regulations, the following terms shall be construed to mean:

a) "Capital equipment" - refers to machinery, equipment, major components thereof, tools, devices, applications or apparatus, which are directly or reasonably needed in the registered project or activity of the registered enterprise;

b) "CHED" - refers to the Commission on Higher Education;

c) "DepEd" - refers to the Department of Education;

d) "Investment Promotion Agencies" - refer to government entities created by law, executive order, decree or other issuance, in charge of promoting investments, granting and administering tax and non-tax incentives, and overseeing the operations of the different economic zones and freeports in accordance with their respective special laws. These include the Board of Investments, Regional Board of Investments-Autonomous Region in Muslim Mindanao, Philippine Economic Zone Authority, Bases Conversion and Development Authority, Subic Bay Metropolitan Authority, Clark Development Corporation, John Hay Management Corporation, Poro Point Management Corporation, Cagayan Economic Zone Authority, Zamboanga City Special Economic Zone Authority, PHIVIDEC Industrial Authority, Aurora Pacific Economic Zone and Freeport Authority, Authority of the Freeport Area of Bataan, Tourism Infrastructure and Enterprise Zone Authority, and all other similar existing authorities or that may be created by law unless otherwise specifically exempted from the coverage of the Tax Code;

e) "Registered business enterprise" - refers to any individual, partnership, corporation, Philippine branch of a foreign corporation, or other entity organized and existing under Philippine laws and registered with an Investment Promotion Agency excluding service enterprises such as those engaged in customs brokerage, trucking or forwarding services, janitorial services, security services, insurance, banking, and other financial services, consumers' cooperatives, credit unions, consultancy services, retail enterprises, restaurants, or such other similar services, as may be determined by the Fiscal Incentives Review Board, irrespective of location, whether inside or outside the zones, duly accredited or licensed by any of the Investment Promotion Agencies and whose income delivered within the economic zones shall be subject to taxes under the Tax Code.

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f) "TESDA" - refers to the Technical Education and Skills Development Authority.

SECTION 4. *Conditions for and Effects of the Availment of Donor's Tax Exemption.* - The donation of capital equipment, raw materials, spare parts, or accessories, which were granted tax and customs duty exemption, to the TESDA, state universities, and colleges (SUCs), or DepEd and CHED-accredited schools shall be exempt from donor's tax, provided that:

a) If made within the first five (5) years from the date of importation, the registered business enterprise secures a Certificate of Approval issued by the concerned Investment Promotion Agency;

b) If made after five (5) years from the date of importation, the registered business enterprise has provided prior notice to the concerned investment promotion agency; and

c) The deed of Donation shall indicate in detail the items donated, their quantity/number, and the amount/value of the donation for post-audit/verification by the Bureau of Internal Revenue.

The amount/value of donation shall be deductible from the gross income of the donor subject to limitations, conditions and rules set forth in Section 34 (H) of the Tax Code, as amended. The deduction shall be availed of in the taxable year in which the donation was made. Moreover, the donor can substantiate the deduction with sufficient evidence, such as sales invoice/s, deed of donation, delivery receipt and other adequate records indicating the following:

a) the amount of donation being claimed as deduction;

b) proof of acknowledgment of receipt of the donated capital equipment, raw materials, spare parts, or accessories by TESDA, SUCs or DepEd and CHED-accredited schools.

Finally, the donation shall not be treated as transaction deemed sale subject to VAT under Section 106(B)(l) of the Tax Code, as amended.

SECTION 5. *Valuation of the Donation.* – The amount of donation shall be based on the net book value of the capital equipment, raw materials, spare parts, or accessories donated.

SECTION 6. *Repealing Clause.* - The provisions of all existing rules, regulations and other issuance or portions thereof inconsistent with the provisions of these Regulations are hereby modified, repealed or revoked accordingly.

SECTION 7. *Effectivity.* - These Regulations shall take effect fifteen (15) days after the date of publication in the Official Gazette or a newspaper of general circulation, whichever comes first.

BENJAMIN E. DIOKNO
Secretary of Finance
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Recommending Approval:

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue
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