REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Date: DEC 0 3 2021

REVENUE REGULATIONS NO. 21-2021

SUBJECT : **Amending Certain Provisions of Revenue Regulations (RR) No. 16-2005, as Amended by RR Nos. 4-2007, 13-2018, 26-2018, and 9-2021 to Implement Sections 294 (E) and 295 (D), Title XIII of the National Internal Revenue Code of 1997 (Tax Code), as Amended by R.A. No. 11534 (CREATE Act), and Section 5, Rule 2 and Section 5, Rule 18 of the CREATE Act Implementing Rules and Regulations**

TO : **All Internal Revenue Officials, Employees and Others Concerned**

SECTION 1. SCOPE. – Pursuant to the provisions of Sections 244 and 245 of the Tax Code of 1997, as amended, these Regulations are hereby promulgated to implement Sections 294 (E) and 295 (D) of Title XIII of the National Internal Revenue Code, as introduced in Republic Act No. 11534 or the "Corporate Recovery and Tax Incentives for Enterprise Act" ("CREATE"), and Section 5, Rule 2 of its Implementing Rules and Regulations (IRR), which reads:

> ***SECTION. 5. Value-added Tax (VAT) zero-rating and exemption.*** *— The VAT exemption on importation and VAT zero-rating on local purchases shall only apply to goods and services directly and exclusively used in the registered project or activity of a registered export enterprise, for a maximum period of seventeen (17) years from the date of registration, unless otherwise extended under the SIPP.*
>
> *The* ***direct and exclusive use for the registered project or activity*** *refers to raw materials, inventories, supplies, equipment, goods, packaging materials, services, including provision of basic infrastructure, utilities, and maintenance, repair and overhaul of equipment, and other expenditures directly attributable to the registered project or activity without which the registered project or activity cannot be carried out; Provided, That the vat zero-rating on local purchases shall be granted upon the endorsement of the concerned IPA, in addition to the documentary requirements of the BIR.*

SECTION 2. ZERO-RATED SALE OF GOODS OR PROPERTIES. – Section 4.106-5 of RR No. 16-2005, as amended by RR No. 4-2007, 13-2018, 26-2018, and 9-2021, shall now be read as follows:

> *"**SEC. 4.106-5. Zero-Rated Sales of Goods or Properties.** - A zero-rated sale of goods or properties by a VAT-registered person is a taxable transaction for VAT purposes but shall not result in any output tax. However, the input tax on purchases of goods, properties, or*

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services, attributable to such zero-rated sale, shall be available as tax credit or refund in accordance with these Regulations.

The following sales by VAT-registered persons shall be subject to zero-percent (0%) rate:

(a) Export sales – "Export Sales" shall mean:

(1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported, paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP); and

(2) The sale of goods, supplies, equipment, and fuel to persons engaged in international shipping or international air transport operations: Provided, That the goods, supplies, equipment, and fuel shall be used exclusively for international shipping or air transport operations.

The sale of goods, supplies, equipment and fuel to persons engaged in international shipping or international air transport operations is limited to goods, supplies, equipment and fuel that shall be used in the transport of goods and passengers from a port in the Philippines directly to a foreign port, or vice versa, without docking or stopping at any other port in the Philippines unless the docking or stopping at any other Philippine port is for the purpose of unloading passengers and/or cargoes that originated from abroad, or to load passengers and/or cargoes bound for abroad: Provided, further, that if any portion of such fuel, goods, supplies or equipment is used for purposes other than that mentioned in this paragraph, such portion of fuel, goods, supplies, and equipment shall be subject to 12% VAT;

*(b) Sales to persons or entities whose exemption from **direct and indirect taxes** under special laws or international agreements to which the Philippines is a signatory effectively subjects such sales to zero rate;*

(c) Sale of raw materials, inventories, supplies, equipment, packaging materials, and goods, to a registered export enterprise, to be used directly and exclusively in its registered project or activity pursuant to Sections 294 (E) and 295 (D) of Republic Act No. 11534 or the "Corporate Recovery and Tax Incentives for Enterprise Act" ("CREATE Act"), and Section 5, Rule 2 of its IRR for a maximum period of seventeen (17) years from the date of registration, unless otherwise extended under the SIPP; Provided, That the term "registered export enterprise" shall refer to an export enterprise as defined under Section 4 (M), Rule 1 of the CREATE Act IRR, that is also a registered business enterprise as defined in Section 4 (W) of the same IRR: Provided further, That the above-described sales to existing registered export enterprises located inside ecozones and freeport zones shall also be qualified for VAT zero-rating under this sub-item until the expiration of the transitory period.

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SECTION 3. ZERO-RATED SALE OF SERVICES. – Section 4.108-5 of RR No. 16-2005, as amended by RR No. 13-2018, 26-2018, and 9-2021, shall now be read as follows:

*"**SEC. 4.108-5. Zero-Rated Sale of Services.** –*

***(a) In general.** - A zero-rated sale of service (by a VAT-registered person) is a taxable transaction for VAT purposes, but shall not result in any output tax. However, the input tax on purchases of goods, properties or services attributable to such zero-rated sale shall be available as tax credit or refund in accordance with these Regulations.*

***(b) Transactions Subject to Zero Percent (0%) VAT Rate.** – The following services performed in the Philippines by a VAT-registered person shall be subject to zero percent (0%) VAT rate:*

(1) Services other than processing, manufacturing or repacking of goods rendered to a person engaged in business conducted outside the Philippines or to a non-resident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP;

*(2) Services rendered to persons or entities whose exemption **from direct and indirect taxes** under special laws or international agreements to which the Philippines is a signatory, effectively subjects the supply of such services to zero percent (0%) rate;*

(3) Sale of services, including provision of basic infrastructure, utilities, and maintenance, repair and overhaul of equipment, to a registered export enterprise, to be used directly and exclusively in its registered project or activity pursuant to Sections 294 (E) and 295 (D) of CREATE Act, and Section 5, Rule 2 of its IRR for a maximum period of seventeen (17) years from the date of registration, unless otherwise extended under the SIPP; Provided, That the term "registered export enterprise" shall refer to an export enterprise as defined under Section 4 (M), Rule 1 of the CREATE IRR, that is also a registered business enterprise as defined in Section 4 (W) of the same IRR: Provided further, That the above-described sales to existing registered export enterprises located inside ecozones and freeport zones shall also be qualified for VAT zero-rating under this sub-item until the expiration of the transitory period.

(4) Services rendered to persons engaged in international shipping or air transport operations, including leases of property for use thereof: Provided, that these services shall be exclusively for international shipping or air transport operations. Thus, the services referred to herein shall not pertain to those made to common carriers by air and sea relative to their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines, the same being subject to twelve percent (12%) VAT under Sec. 108 of the Tax Code.

(5) Transport of passengers and cargo by domestic air or sea vessels from the Philippines to a foreign country. Gross receipts of international air or shipping carriers doing business in the Philippines derived from transport of passengers and cargo from the Philippines to another country shall be exempt from VAT; however, they are still liable to a

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percentage tax of three percent (3%) based on their gross receipts derived from transport of cargo from the Philippines to another country as provided for in Sec. 118 of the Tax Code; and

(6) Sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal and steam, ocean energy, and other emerging sources using technologies such as fuel cells and hydrogen fuels: Provided, however, that zero-rating shall apply strictly to the sale of power or fuel generated through renewable sources of energy, and shall not extend to the sale of services related to the maintenance or operation of plants generating said power.

SECTION 5. REPEALING 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 leading newspaper of general circulation, and shall cover transactions entered into the third quarter of Taxable Year 2021 and onwards.

CARLOS G. DOMINGUEZ
Secretary of Finance
DEC 03 2021

Recommending Approval:

CAESAR R. DULAY
Commissioner of Internal Revenue
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