REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

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REVENUE REGULATIONS NO. 26-2018

Date: December 21, 2018

SUBJECT: **Amends Certain Provisions of Revenue Regulations No. 13-2018 to Implement the 90-Day Processing of Claim for VAT Refund Under Section 112(C) of the Tax Code of 1997, as amended by Republic Act (R.A.) No. 10963, Otherwise Known as the Tax Reform for Acceleration and Inclusion or TRAIN**

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

SECTION 1. SCOPE. Pursuant to the provisions of Sections 244 and 245 of the National Internal Revenue Code of 1997 (Tax Code), as amended, these Regulations are hereby promulgated to amend certain provisions of Revenue Regulations (RR) No. 13-2018 to effect the amendments made in Section 112(C) in relation with Sections 106(A)(2)(a)(3), (4), and (5) and 108(B)(1) and (5) of the Tax Code, as amended by R.A. No. 10963 or the TRAIN.

SECTION 2. AMENDMENTS. Sections 4.106-5, 4.108-5, 4.112-1 and 13 of RR No. 13-2018, are hereby further amended to read as follows:

"**SEC. 4.106-5. Zero Rated Sales of Goods or Properties.** - xxx.

xxx xxx xxx.

Provided, That **items (2), (3), and (4) abovementioned shall be subject to the twelve percent (12%) Value-Added Tax and no longer be subject to zero percent (0%) VAT rate upon satisfaction of the following conditions:**

1. **The successful establishment and implementation of an enhanced VAT refund system that grants refunds and pays refunds of creditable input tax within ninety (90) days from the filing of the VAT refund application with the Bureau:** ***Provided, That,*** **to determine the effectivity of Item no. 1, all applications filed from January 1, 2018 shall be processed and decided within ninety (90) days from the filing of the VAT refund application.**

   The 90-day period to process and decide shall start from the filing of the application/claim for refund up to the release of the payment of the VAT refund. Provided, That, the claim/application is considered to have been filed only upon submission of the official receipts or invoices and other documents in support of the application as prescribed under pertinent revenue issuances.

   The Secretary of Finance shall provide transitory rules for the grant of refund under the enhanced VAT Refund System after the determination of the fulfillment of the condition by the Commissioner of Internal Revenue as provided in item 1 paragraph 1 hereof; and

2. **All pending VAT refund claims as of December 31, 2017 shall be fully paid in cash by December 31, 2019.**

Provided, that the Department of Finance shall establish a VAT refund center in the BIR and in the Bureau of Customs (BOC) that will handle the processing and granting of cash refunds of creditable input tax.

XXX XXX XXX

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

XXX XXX XXX

Provided, That subparagraphs (b)(1) and (b)(5) abovementioned shall be subject to the twelve percent (12%) Value-added tax and no longer be subject to zero percent (0%) VAT rate upon satisfaction of the following conditions:

1. The successful establishment and implementation of an enhanced VAT refund system that grants refunds and pays refunds of creditable input tax within ninety (90) days from the filing of the VAT refund application with the Bureau: *Provided, That,* to determine the effectivity of Item no. 1, all applications filed from January 1, 2018 shall be processed and decided within ninety (90) days from the filing of the VAT refund application.

   The 90-day period to process and decide shall start from the filing of the application/claim for refund up to the release of the payment of the VAT refund. Provided, That, the claim/application is considered to have been filed only upon submission of the official receipts or invoices and other documents in support of the application as prescribed under pertinent revenue issuances.

   The Secretary of Finance shall provide transitory rules for the grant of refund under the enhanced VAT Refund System after the determination of the fulfillment of the condition by the Commissioner of Internal Revenue as provided in item 1 paragraph 1 hereof; and

2. All pending VAT refund claims as of December 31, 2017 shall be fully paid in cash by December 31, 2019.

Provided, that the Department of Finance shall establish a VAT refund center in the BIR and in the Bureau of Customs (BOC) that will handle the processing and granting of cash refunds of creditable input tax.

XXX XXX XXX

SEC. 4.112-1. Claims for Refund/Credit of Input Tax. –

XXX XXX XXX

(d) Period within which refund/credit of input taxes shall be made

In proper cases, the Commissioner of Internal Revenue shall grant refund for creditable input taxes within ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with subsections (a) and (b) hereof; *Provided, That,* should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.

The 90-day period to process and decide shall start from the filing of the claim up to the release of the payment of the VAT refund. Provided, That, the claim/application is considered to have been filed only upon submission of the official receipts or invoices and other documents in support of the application as prescribed under pertinent revenue issuances.

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In case of full or partial denial of the claim for tax refund, the taxpayer affected, may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals (CTA): ***Provided, that failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of the Tax Code, as amended. Provided further, That, in the event that the 90-day period has lapsed without having the refund released to the taxpayer-claimant, the VAT refund claim may still continue to be processed administratively. Provided however, That the BIR official, agent, or employee who was found to have deliberately caused the delay in the processing of the VAT refund claim may be subjected to penalties imposed under said section.***

xxx xxx xxx"

"***SECTION 13. TRANSITORY PROVISIONS.*** – *This section is re-numbered to Section 3.*

xxx xxx xxx

3. *The foregoing amendment, relative to the 90-day processing period of claims to include the payment thereof, shall apply to claims to be filed upon the effectivity of these Regulations.*"

SECTION 4. 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 5. 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 6. EFFECTIVITY. — These Regulations shall take effect immediately following publication in leading newspapers of general circulation.

CARLOS G. DOMINGUEZ
Secretary of Finance

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Recommending Approval:

CAESAR R. DULAY
Commissioner of Internal Revenue

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