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

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REVENUE REGULATIONS NO. 5 -2024

SUBJECT : Implementing Sections 76(C), 112(C), 112(D), 204(C), 229, and 269(J) of the National Internal Revenue Code of 1997, as Amended by Republic Act No. 11976, otherwise known as the "Ease of Paying Taxes Act", on Tax Refunds

TO : All Internal Revenue Officers and Others Concerned

SECTION 1. ***Scope.*** – Pursuant to the provisions of Sections 244 and 245 of the National Internal Revenue Code of 1997, as amended (Tax Code), in relation to Section 47 of Republic Act (RA) No. 11976, otherwise known as the "Ease of Paying Taxes (EOPT) Act", these Regulations are hereby promulgated to implement Section 112(C) of the Tax Code on the risk-based approach in verifying VAT refund claims, Section 112(D) of the Tax Code on the liabilities in case of disallowance by the Commission on Audit (COA), Section 76(C) of the Tax Code on the refund of unutilized excess income tax credit in case of dissolution or cessation of business, Section 204(C) of the Tax Code on the processing of tax refund, and Section 229 of the Tax Code on the policies for judicial claims.

SECTION 2. ***Coverage.*** – To provide ample time for the taxpayers and the BIR to adjust to the new requirements and procedures to be prescribed pursuant to the amendments introduced by the EOPT, these Regulations shall cover tax credit/refund claims that are filed starting 01 July 2024 onwards.

(A) Section 112(C) of the Tax Code that introduced the risk-based approach to verification of VAT refund claims;

(B) Section 112(D) of the Tax Code which clarified the liability of the taxpayer-claimant and the BIR in case of disallowance by the Commission of Audit (COA);

(C) Section 76(C) of the Tax Code allowing the application for refund of unutilized excess income tax credit in case of dissolution or cessation of business. For purposes of these Regulations, the entire provision of 76(C) of the Tax Code shall be covered to include policies for the processing of income tax credit/refund of taxpayers who have chosen the option to apply for tax credit or refund the excess income tax in their Annual Income Tax Returns (AITR);

(D) Section 204(C) of the Tax Code that introduced the one hundred eighty (180)-day processing of claims for tax refund except for VAT Refunds under Section 112 of the Tax Code; and

(E) Section 229 of the Tax Code that outlined the policies for judicial claims and repealed the supervening clause provision thereof.

These Regulations do not cover processing of tax refund/credit claims pursuant to the final and executory judgement by the courts.

SECTION 3. ***Risk-Based Approach to Verification of VAT Refund Claims.*** - The EOPT Act introduced the risk-based approach to verification and processing of VAT refund claims under Section 112(C) of the Tax Code including the recourse of the taxpayer in case the ninety (90)-day processing period expires and the BIR has not yet rendered its decision on the claim. The following rules shall be followed:

(A) VAT refund claims filed pursuant to Section 112(A) of the Tax Code shall be classified into low-, medium-, and high-risk claims. *Provided*, that, medium- and high-risk claims shall be subject to audit or other verification processes in accordance with the BIR's national audit program for the relevant year or with the current policies and procedures applicable to the year of application of the VAT refund.

(B) The scope of verification in accordance with the identified risks as follows:

Risk Level	**Submission of Complete Documentary Requirements Prescribed by BIR***	**Scope of Verification of Sales**	**Scope of Verification of Purchases**
Low	Yes	No verification	No verification
Medium	Yes	At least 50% of the amount of sales **and** 50% of the total invoices/receipts issued including inward remittance and proof of VAT zero-rating	At least 50% of the total amount of purchases with input tax claimed **and** 50% of suppliers with priority on "Big-Ticket" Purchases
High	Yes	100%	100%

Note: * - Based on initial checking of the documents submitted during check-listing procedures only. This does not include thorough verification of the supporting documents for sales and purchases.

The following are the limitations to the above matrix:

1. Claims filed by first-time claimants shall be automatically considered as high-risk and shall remain as such for the succeeding three (3) VAT refund claims.

2. In case of full denial of a claim, the succeeding claim filed shall be classified as high-risk.

3. For medium-risk claims, verification shall be adjusted to 100% if the assigned Revenue Officer found at least 30% disallowance of the amount of VAT refund claim.

4. Claims classified as low-risk for the three (3) consecutive filing of VAT refund claims shall be subject to mandatory full verification on the fourth (4th) VAT refund claim regardless of the risk classification.

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5. VAT credit/refund claims for any unused input tax pursuant to Section 112(B) of the Tax Code filed by a VAT-registered person whose registration has been cancelled due to retirement from or cessation of business, or due to changes in or cessation of status under Section 106(C) of the Tax Code shall be classified as high-risk and will require full verification thereof.
6. For taxpayer-claimants filing on a quarterly basis, the risk classification shall be made for every filing.

7. Other limitations that may be identified by the Commissioner of Internal Revenue through revenue issuances.

(C) The following are the main risk factors that will be used as guide by the BIR in establishing the risk-level of each claim:

1. Amount of VAT refund claim;

2. Frequency of filing VAT refund claims;

3. Tax compliance history; and

4. Other risk factors that may be identified.

The BIR may expand the above list into sub-categories and assign weights to each category to arrive at a more comprehensive and accurate risk classification of the claim.

(D) The verification and processing of VAT refund claims shall be separate from the regular audit, if any, of internal revenue taxes particularly VAT conducted by the appropriate BIR office that has jurisdiction over the taxpayer-claimant. Any findings during the verification of VAT refund claim that has no effect to the amount to be refunded shall be:

1. Endorsed for further verification and/or consolidation with the existing audit if the processing is conducted by an Office other than the BIR office that has jurisdiction over the claimant; or

2. Incorporate to the existing audit for the taxable year covered by the claim if processed within the same BIR office that has jurisdiction over the claimant.

(E) All documentary requirements mandated by the BIR for purposes of VAT refund under Section 112 of the Tax Code shall be submitted by the taxpayer regardless of the identified risk level. These documents will be subject to post-audit by COA should this result in approval thereof, as contemplated under Section 112(D) of the Tax Code.

(F) Evaluator/s of the VAT refund claim shall include to their respective working papers the matrix on how the risk level of the claim was arrived at, including justifications and documentations, if any;

(G) The processing offices shall furnish DOF, the BIR Management and COA a monthly report on the VAT refund claims processed to include the risk level identified for each taxpayer claimant.

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(H) BIR may utilize sales and/or purchases data available in the Electronic Invoicing/Receipting and Sales Transmission System (EIS) pursuant to Revenue Regulations (RR) Nos. 8-2022 and 9-2022, if applicable.

(I) The 90-day period to process and decide shall start from the filing of the claim/application for VAT refund with complete documentary requirements up to the release of the payment thereof. *Provided*, that, the application is considered to have been filed only upon submission of the invoices or receipts, whichever is applicable, and other documents in support of the application as prescribed under pertinent revenue issuances.

(J) In case of full or partial denial of the claim for VAT 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).

(K) In case the VAT refund is not acted upon by the Commissioner within the 90-day period, the taxpayer-claimant may opt to:

1. Appeal to the CTA within the 30-day period after the expiration of the 90 days required by law to process the claim; or

2. Forego the judicial remedy and await the final decision of the Commissioner on the application of VAT refund claim.

When the BIR failed to render a decision within the 90-day period and the taxpayer-claimant opted to seek for a judicial remedy within 30-days from such period, the administrative claim for refund shall be considered moot and shall no longer be processed.

(L) 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 Section 269(J) of the Tax Code.

SECTION 4. ***Liability of the Taxpayer-claimants and BIR Officials/Employees in Case of COA Disallowances.*** -

(A) Refund shall be made upon warrants drawn by the Commissioner of Internal Revenue or by his duly authorized representative without the necessity of being countersigned by the COA Chairman, the provisions of the Revised Administrative Code to the contrary notwithstanding.

(B) Approved VAT refunds under Section 112 of the Tax Code shall be subject to post audit by the COA following the risk-based classification above-described.

(C) In case of disallowance by the COA, only the taxpayer shall be liable for the disallowed amount without prejudice to any administrative liability on the part of any employee of the BIR who may be found to be grossly negligent in the grant of the refund.

(D) Procedures for the recovery of the disallowed amount will be in accordance with the

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procedures or guidelines that may be prescribed by COA for this purpose.

SECTION 5. ***Credit/Refund of Unutilized Excess Income Tax Credit Under Section 76(C).*** – In order to properly implement Section 76(C) of the Tax Code, the following rules shall apply:

(A) Regular Claims. – This applies to claims for income tax credit/refund of taxpayers of "going-concern" status who have chosen the option to apply for tax credit or refund the excess income tax in their AITRs.

1. Pursuant to Section 58(E) of the Tax Code that was amended under Section 9 of the EOPT Act, income upon which any creditable tax is required to be withheld at source under Section 57 of the Tax Code shall be included in the AITR of its recipient but the excess of the amount of tax so withheld over the tax due on the AITR shall be refunded subject to the provisions of Section 204 of the Tax Code.

2. In case the taxpayer is entitled to a tax credit or refund of the excess income taxes paid during the year, the excess amount shown on its final adjustment return may be carried over and credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable years. Once the option to carry-over and apply the said excess income taxes paid against the income tax due for the taxable quarters of the succeeding taxable years has been made, such option shall be considered irrevocable for that taxable period and no application for cash refund or issuance of a tax credit certificate (TCC) shall be allowed therefor.

3. In case the taxpayer chose the option to be issued TCC or refund but carried forward the said amount sought to be refunded/issued TCC in the AITR filed for the succeeding year, this shall be a ground for denial of the claim for tax credit or refund. However, the carried over amount may be allowed as credit against future income tax liabilities of the taxpayer-claimant.

4. Requisites in claiming tax credit or refund of unutilized excess income tax:

   a. The filing of claim for TCC/refund must be made within two (2) years from the date of filing of the AITR.

   b. The income upon which the taxes were withheld must be included as part of the gross income declared in the income tax return of the recipient.

   c. The fact of withholding is established by a copy of the withholding tax certificate duly issued by the payor (withholding agent) to the payee showing the amount of income payment and the amount of tax withheld. The taxpayer-claimant must be clearly identified as the payee in the withholding tax certificate.

(B) Dissolution or Cessation of Business. – As an exception to the irrevocability rule, the taxpayers who chose the option to "carry-over" may claim a refund provided that they have permanently ceased operations as also contemplated under Section 76(C) of the Tax Code.

1. In case the taxpayer cannot carry-over the excess income tax credit due to dissolution or cessation of business, the taxpayer shall file an application for refund of any unutilized excess income tax credit.

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2. As clearly provided for in Section 10 of the EOPT Act, amending Section 76 of the Tax Code, the processing office/s of the Bureau of Internal Revenue (BIR) shall decide on the application and refund the excess taxes within two (2) years from the date of the dissolution or cessation of business. This is an exception to the 180-day processing of TCC/refund under Section 204(C) of the Tax Code.

3. For purposes of these Regulations, the 2-year period to decide and refund the excess taxes shall commence from the submission of the "Application for Registration Information Update/Correction/Cancellation" (BIR Form No. 1905) together with the complete documentary requirements set by the BIR for the closure of business and the refund of excess income taxes due to cessation or dissolution of business under Section 76 of the Tax Code.

4. The approved refund, if any, shall be released only after completion of the mandatory audit of all internal revenue tax liabilities covering the immediately preceding year and the short period return and full settlement of all tax liabilities relative to cessation or dissolution of the business and any existing tax liabilities prior to the cessation or dissolution of the business.

SECTION 6. ***Processing of Tax Credit/Refund Claims Under Sections 204(C) and 229 of the Tax Code.*** **-**

(A) The Commissioner may credit/refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, at the Commissioner's discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction.

(B) No credit/refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty as provided under Section 229 of the Tax Code: *Provided,* however, that a return filed showing an overpayment shall be considered as a written claim for credit/refund. *Provided,* further, that for purposes of the 180-day processing period, the counting shall begin upon submission of complete documents in support of the application that will be prescribed by the BIR for this purpose and should be within the 2-year prescriptive period.

(C) Sections 204(C) and 229 of the Tax Code mandate that the time-frame to process and decide the tax credit/refund shall be 180 days from the date of submission of complete documents in support of the application as prescribed by the BIR up to the payment of the approved refund or receipt of the TCC.

(D) Processing of income tax credit/refund under Section 76(C) for a taxpayer whose operations is a "going concern" requires checking of the books of accounts and thorough audit to properly establish the propriety of the refund. To comply with the 180-day processing required under Section 204(C) of the Tax Code, all offices concerned shall prioritize the processing of income tax credit/refund claim/s filed under Section 76(C), in relation to Section 204(C) and 229 of the Tax Code.

For purposes of these Regulations, the processing of income tax credit/refund shall be prioritized and should not be held in abeyance pending the completion of the audit for

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all internal revenue tax liabilities.

(E) Claim/s for tax credit/refund under Sections 204(C) and 229 of the Tax Code must conform with the following essential requisites:

1. The tax credit/refund claim pertains to erroneously or illegally received or collected taxes or penalties imposed without authority.

2. Filing of a claim for tax credit/refund must be done within two (2) years after payment of the tax or penalty.

3. The erroneously or illegally received or collected taxes must be supported with a copy of the duly filed tax return with the corresponding payment remitted to the BIR.

(F) Should the Commissioner deny, in full or in part, the claim for credit/refund, the Commissioner shall state the legal and/or factual basis for the denial.

(G) The result of the investigation of the claim, whether approval or denial, shall be communicated to the taxpayer-claimant signed by the authorized revenue official.

(H) In case of full or partial denial of the claim for credit/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).

(I) In case the tax refund/credit is not acted upon by the Commissioner within the 180-day period, the taxpayer-claimant may opt to:

1. Appeal to the CTA within the 30-day period after the expiration of the 180 days required by law to process the claim; or

2. Forego the judicial remedy and await the final decision of the Commissioner on the application of VAT refund claim.

When the BIR failed to render a decision within the 180-day period and the taxpayer-claimant opted to seek for a judicial remedy within thirty (30) days from such period, administrative claim for refund shall be considered moot and shall no longer be processed.

(J) Deliberate failure on the part of any official, agent, or employee of the BIR to process and decide on the application within the prescribed 180-day period shall be punishable under Section 269(J) of the Tax Code.

(K) A TCC validly issued under the provisions of the Tax Code may be applied against any internal revenue tax liability, excluding withholding taxes, for which the taxpayer is directly liable. Any request for conversion into refund of unutilized TCC may be allowed, subject to the provisions of Section 230 of the Tax Code: *Provided,* That the original copy of the TCC showing a creditable balance is surrendered to the appropriate revenue officer for verification and cancellation. *Provided, further,* that in no case shall a tax refund be given resulting from availment of incentives granted pursuant to special laws for which no actual payment was made.

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SECTION 7. ***Judicial Claim for Credit/Refund Under Section 229 of the Tax Code.*** **-**

(A) No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, **until a claim for refund or credit has been duly filed with the Commissioner**; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

(B) In any case, no such suit or proceeding shall be filed unless there is a full or partial denial of the claim for credit/refund by the Commissioner or there is a failure on the part of the Commissioner to act on the claim within the 180-day period under Section 204(C) of the Tax Code.

(C) Judicial claim for tax credit/refund must be made within thirty (30) days from full or partial denial by the Commissioner or failure on the part of the Commissioner to act on the claim within the one hundred eighty (180)-day period under Section 204(C) of the Tax Code.

(D) For tax refund claims of excess income taxes of taxpayers undergoing cessation or dissolution of business pursuant to Section 76(C) of the Tax Code, judicial claim for tax credit/refund must be made within thirty (30) days from full or partial denial by the Commissioner.

SECTION 8. ***Separability Clause.*** – If any of the provisions of these Regulations is subsequently declared invalid or unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

SECTION 9. ***Repealing Clause.*** – All other issuances and rules and regulations or parts thereof which are contrary to and inconsistent with any provisions of these Regulations are hereby repealed, amended, or modified accordingly.

SECTION 10. ***Effectivity.*** – These Regulations shall take effect fifteen (15) days following its publication in the Official Gazette or the BIR official website, whichever comes first.

RALPH G. RECTO
Secretary of Finance
APR 08 2024

Recommending Approval:

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

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