REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

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JUN 22 2022

REVENUE REGULATIONS NO. 7-2022

SUBJECT : **Tax Incentives Under the Renewable Energy Act of 2008 and the Policies and Guidelines for the Availment Thereof**

TO : **All Internal Revenue Officers and Others Concerned**

SECTION 1. OBJECTIVE – Pursuant to Sections 244 and 245 of the National Internal Revenue Code (NIRC) of 1997, as amended, and in accordance with the State's policy to increase the utilization of Renewable Energy (RE) resources by institutionalizing the development of national and local capabilities in the use of RE systems and promoting its efficient and cost-effective commercial application by providing fiscal incentives, these Regulations are hereby promulgated relative to the tax-incentive provisions of Sections 15, 19, 21, 22, 23, 25, and 26 of Republic Act (RA) No. 9513, otherwise known as the "*Renewable Energy Act of 2008*" as well as to the policies and guidelines for the availment thereof.

SECTION 2. DEFINITION OF TERMS – For purposes of these Regulations, the following terms shall be defined as follows:

(a) ***"Act"*** refers to RA No. 9513 or the Renewable Energy Act of 2008;

(b) ***"Ancillary Services"*** refer to those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the transmission system in accordance with good utility practice and the Grid Code to be adopted in accordance with the provisions of RA 9136 or the Electric Power Industry Reform Act of 2001;

(c) ***"Biomass Resources"*** refer to non-fossilized, biodegradable organic materials originating from naturally-occurring or cultured plants or parts thereof, animals and micro-organisms, including agricultural products, by-products and residues such as, but not limited to, biofuels except corn, soya beans and rice but including sugarcane and coconut, rice hulls, rice straws, coconut husks and shells, wood chips/residues, forest residues, corn cobs, corn stovers, bagasse, biodegradable organic fractions of industrial and municipal wastes that can be used in bioconversion process and other processes, as well as gases and liquids recovered from the decomposition and/or extraction of non-fossilized and biodegradable organic materials;

(d) ***"Board of Investments" (BOI)*** refers to an attached agency of the Department of Trade and Industry (DTI) created under RA No. 5186, as amended;

(e) ***"Co-Generation Systems"*** refer to facilities which produce electrical and/or mechanical energy and forms of useful thermal energy such as heat or steam which

are used for industrial, commercial heating or cooling purposes through the sequential use of energy;

(f) ***"Department of Energy" (DOE)*** refers to the government agency created pursuant to RA No. 7638 whose functions are expanded in RA No. 9136 and further expanded in the Act;

(g) ***"Department of Trade and Industry" (DTI)*** refers to the government agency created pursuant to Executive Order No. 133;

(h) ***"Energy Regulatory Commission" (ERC)*** refers to the independent quasi-judicial regulatory agency created pursuant to RA No. 9136;

(i) ***"Geothermal Energy" (Geothermal)*** as used herein and in the context of the Act, shall be considered renewable and the provisions of the Act are therefore applicable thereto if geothermal energy, as a mineral resource, is produced through: (1) natural recharge, where the water is replenished by rainfall and the heat is continuously produced inside the earth; and/or (2) enhanced recharge, where hot water used in the geothermal process is re-injected into the ground to produce more steam as well as to provide additional recharge to the convection system;

(j) ***"Hybrid Systems"*** refer to any power or energy generation facility which makes use of two or more types of technologies utilizing both conventional and/or renewable fuel resources, such as, but not limited to, integrated solar/wind systems, biomass/fossil fuel systems, hydropower/fossil fuel systems, integrated solar/biomass systems, integrated wind/fossil fuel systems, with a minimum of ten megawatts (10 MW) or ten percent (10%) of the annual energy output provided by the RE component;

(k) ***"Hydroelectric Power Resources" (Hydropower)*** refer to water resources found technically feasible for the development of hydropower projects which includes rivers, lakes, waterfalls, irrigation canals, springs, ponds, and other water bodies;

(l) ***"Ocean Energy Systems"*** refer to energy systems which convert ocean or tidal current, ocean thermal gradient or wave energy into electrical or mechanical energy;

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(m) ***"Power Applications"*** refer to renewable energy systems or facilities that produce electricity;

(n) ***"Renewable Energy (Systems) Developers"*** **or** ***"RE Developers"*** refer to individuals or judicial entities created, registered and/or authorized to operate in the Philippines in accordance with existing Philippine laws and engaged in the exploration, development and utilization of RE resources and actual operation of RE systems/facilities. It shall include existing entities engaged in the exploration, development and/or utilization of RE resources, or the generation of electricity from RE resources, or both. To be considered as a Registered RE Developer qualified to avail of incentives under these Regulations, an RE developer must be duly registered with DOE;

(o) ***"Renewable Energy Service/Operating Contract" (RE Contract)*** refers to the service agreement between the Government, through the President or the DOE, and an RE Developer over an appropriate period as determined by the DOE in which the RE

Developer has the exclusive right to explore and develop a particular RE area. The RE Contract shall be divided into two (2) stages: the pre-development stage and the development/commercial stage. The preliminary assessment and feasibility study up to financial closing shall refer to the pre-development stage. The construction and installation of facilities up to the operation phase shall refer to the development stage;

(p) ***"Renewable Energy Resources" (RE Resources)*** refer to energy resources that do not have an upper limit on the total quantity to be used. Such resources are renewable on a regular basis, and whose renewal rate is relatively rapid to consider availability over an indefinite period of time. These include, among others, biomass, solar, wind, geothermal, ocean energy, and hydropower conforming with internationally accepted norms and standards on dams, and other emerging renewable energy technologies;

(q) ***"Renewable Energy Systems" (RE Systems)*** refer to energy systems which convert RE resources into useful energy forms, like electrical, mechanical, etc;

(r) ***"Solar Energy" (Solar)*** refers to the energy derived from solar radiation that can be converted into useful thermal or electrical energy;

(s) ***"Supplier"*** refers to any person or entity authorized by the ERC to sell, broker, market or aggregate electricity to the end-users;

(t) ***"Wind Energy" (Wind)*** refers to the energy that can be derived from wind that is converted into useful electrical or mechanical energy.

SECTION 3. REQUIRED CERTIFICATIONS/ACCREDITATIONS FROM APPROPRIATE GOVERNMENT AGENCIES FOR THE AVAILMENT OF THE TAX INCENTIVES – RE developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall secure the certifications/accreditations listed hereunder before any incentive provided for in the Act may be availed of.

A. ***Registration/Accreditation with the DOE*** - Existing and new RE Developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall register with the DOE, through the Renewable Energy Management Bureau (REMB). The following certifications shall be secured and submitted to the BIR:

(1) ***DOE Certificate of Registration*** – issued to an RE Developer holding a valid RE Service/Operating Contract. For existing RE projects, the new RE Service/Operating Contract shall pre-terminate and replace the existing Service Contract that the RE Developer has previously executed with the DOE. The DOE Certificate of Registration is issued immediately upon award of an RE Service/Operating Contract covering an existing or new RE project or upon approval of additional investment. Any investment added to existing RE projects is subject to prior approval by the DOE.

(2) ***DOE Certificate of Accreditation*** – issued to RE manufacturers, fabricators, and suppliers of locally-produced RE equipment, upon submission of necessary requirements as determined by the DOE, in coordination with the DTI.

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*B. **Certificate of Endorsement by the DOE** -* RE Developers shall secure the Certificate of Endorsement from the DOE prior to the first year of availment of the 10% corporate income tax rate incentive.

Manufacturers, fabricators, and suppliers of locally produced RE equipment who import components, parts, and materials necessary for the manufacture and/or fabrication of RE equipment shall secure a Certificate of Endorsement from the DOE, through the REMB, on a per importation basis.

*C. **Registration with the Board of Investments (BOI)*** – To qualify for incentives under the Act, RE developers, manufacturers, fabricators, and suppliers of locally-produced equipment shall register with the BOI.

*D. **Certificate of ITH Entitlement (CE)*** – Issued by the BOI, the CE is a required attachment to the current annual ITR to be filed with the BIR. The ITH shall only be applied to the registered activity indicated in the CE. Failure to attach the CE to the ITR may result to the forfeiture of the ITH incentive for the covered taxable year.

SECTION 4. FISCAL INCENTIVES FOR RENEWABLE ENERGY PROJECTS AND ACTIVITIES – The following provisions shall govern the tax incentives and treatments on the DOE-certified existing and new RE developers of RE facilities in consultation with BOI, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications:

*A. **Income Tax Holiday (ITH)*** – The duly-registered RE Developer shall be exempt from income taxes levied by the National Government for the period as follows:

(1) Existing RE Projects – Shall be entitled to ITH for seven (7) years from start of commercial operations which is when the RE Project has been issued a Certificate of Compliance (COC) by the ERC under RA No. 9136 (Electric Power Industry Reform Act of 2001 or the EPIRA) and is ready to inject power to the grid. All RE Developers that acquire, operate and/or administer existing RE facilities that were or have been in commercial operations for more than seven (7) years, upon the effectivity of the Act, shall not be entitled to ITH, except for any additional investment in RE resources.

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(2) New investment in RE Resources – Shall be entitled to ITH for seven (7) years from the start of commercial operations resulting from new investments. RE Developers undertaking discovery and development of new RE resources distinct from their registered operations may qualify as new projects, subject to the setting up of separate books of accounts to be registered and approved by the BIR office where the RE developer is required to be registered. In such cases, a fresh package of ITH from the start of commercial operations shall apply.

(3) Additional investments in the RE Project – Availment of ITH for additional investments in RE project shall not be more than three (3) times the period of the initial availment by the existing or new RE Project or covering new or additional investments.

The ITH for additional investments in an existing RE project shall be applied only to the income attributable to the additional investment. Additional investment may

cover investments for improvements, modernization, or rehabilitation duly registered with the DOE, which may or may not result in increased capacity. Subject to the issuance of appropriate guidelines by the DOE and/or the BOI, the DOE and the BOI shall issue a certification as to the amount or percentage of additional income generated by the additional investment in an existing project to be attached to the annual Income Tax Return (ITR) to be filed with the BIR.

B. ***Net Operating Loss Carry-Over (NOLCO)*** – The NOLCO of the RE Developer during the first three (3) years from the start of commercial operation shall be carried over as a deduction from gross income for the next seven (7) consecutive taxable years immediately following the year of such loss, subject to the following conditions:

(1) The NOLCO had not been previously offset as a deduction from gross income; and

(2) The loss should be a result from the operation and not from the availment of incentives provided for in the Act.

Other than the express provisions cited above specifically for persons engaged in RE, the guidelines and procedures set forth in Revenue Regulations (RR) No. 14-2001 shall be strictly followed in the availment of the NOLCO.

C. ***Corporate Tax Rate*** – After availment of the ITH, all registered RE Developers shall pay a corporate tax of ten percent (10%) on their net taxable income as defined in the National Internal Revenue Code (NIRC) of 1997, as amended: *Provided,* That the RE Developers shall pass on the savings to the end-users in the form of lower power rates.

All RE Developers that acquire, operate, and/or administer existing RE facilities that were or have been in commercial operation for more than seven (7) years, upon the effectivity of the Act, shall pay a corporate tax rate of 10% on their net taxable income, upon registration with the DOE.

For purposes of the availment of this incentive, the RE developer shall submit to the BIR the following:

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(1) Copy of the Certificate of Endorsement issued by the DOE prior to the first year of its availment of the 10% corporate income tax rate;

(2) Valid and subsisting renewable energy service/operating contract and the corresponding Certificate of Registration; and

(3) In addition, the RE Developer shall attach to its ITR, a **Sworn Undertaking** stating that for the year of its availment of the 10% corporate income tax rate incentive, it has not been found to have breached its obligations under the Renewable Energy Service/Operating Contract and that it shall pass on the savings derived from this incentive in the form of lower power rates.

In the years succeeding its initial availment of the 10% corporate income tax rate incentive, following the effectivity of these Regulations, the RE Developer shall attach to the ITR, in addition to the above requirements, proof of submission to the DOE and ERC of the Report, supported by technical and financial documents, as required in Section 1(F) of DOE Department Circular No. DC2021-12-0042.

To further prove that the RE Developer has, during the previous year, passed on the savings derived from this incentive to the end-users in the form of lower power rates, the RE Developer shall submit to the BIR the rates approved by the ERC.

D. ***Accelerated Depreciation*** – If an RE project fails to receive an ITH before full operation, the RE developer may apply for accelerated depreciation in its tax books and be taxed on the basis of the same.

If an RE Developer applies for accelerated depreciation, the project or its expansions shall no longer be eligible to avail of the ITH.

Plant, machinery and equipment that are reasonably needed and actually used for the exploration, development and utilization of RE Resources may be depreciated using a rate not exceeding twice the rate which would have been used had the annual allowance been computed. Any of the following methods of accelerated depreciation may be adopted:

(1) Declining balance method; and

(2) Sum-of-the years digit method.

The RE developer shall inform the BIR, through the Revenue District Office (RDO) where it is registered, that it is availing of the accelerated depreciation instead of the ITH.

E. ***Zero Percent Value-Added Tax Rate*** – The sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be subject to zero percent (0%) value-added tax (VAT) pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended; Provided, that ancillary services generated through renewable sources of energy shall also be subject to zero percent (0%) VAT.

On the other hand, the purchase by an RE Developer of local goods, properties, and services needed for the development, construction, and installation of the plant facilities of RE Developers; and the whole process of exploration and development of RE sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors shall also subject to zero percent (0%) VAT.

Accordingly, local suppliers/sellers of goods, properties, and services of duly-registered RE developers should not pass on the 12% VAT on the latter's purchases of goods, properties and services that will be used for the development, construction and installation of their power plant facilities. This includes the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors.

The local suppliers of goods, properties, and services shall require from the RE Developer a copy of the latter's BOI Registration and DOE Registration for purposes of availing the zero percent (0%) VAT incentive.

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*F. **Tax Exemption of Carbon Credits*** – All proceeds from the sale of carbon emission credits shall be exempt from any and all taxes.

SECTION 5. HYBRID AND CO-GENERATION SYSTEMS – The tax exemptions and/or incentives provided for in Section 4 of these Regulations shall be availed of by a registered RE Developer of hybrid and cogeneration systems utilizing both RE sources and conventional energy but only in proportion to and to the extent of the RE component. Moreover, the tax exemptions and incentives for hybrid and cogeneration systems shall apply only to the equipment, machinery, and/or devices utilizing RE Resources.

In this regard, the RE Developer shall secure with the DOE a certification to distinguish the equipment, machinery, and/or devices utilizing RE Resources. Only RE Facilities shall be entitled to the RE incentives. For "common facilities", the DOE shall certify the capacity of RE in megawatts to determine the ratio of the tax exemption privileges to be granted to RE Developers employing hybrid and co-generation systems. Moreover, a CE shall also be secured from the BOI should the RE Developer avail of the ITH and attach the same to the annual ITR to be filed with the BIR.

SECTION 6. INCENTIVES FOR RE COMMERCIALIZATION – All manufacturers, fabricators, and suppliers of locally produced RE equipment and components duly recognized and accredited by the DOE and upon registration with the BOI, shall be entitled to the privileges set forth below on their sale of RE equipment to RE Developers:

*A. **Value-Added Tax (VAT)–free Importation of Components, Parts, and Materials*** – All shipments necessary for the manufacture and/or fabrication of RE equipment and components shall be exempt from VAT on importation: *Provided:* That the said components, parts, and materials are:

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(1) Not manufactured domestically in reasonable quantity and quality at competitive prices, as certified to by the DTI;

(2) Directly and actually needed and shall be used exclusively in the manufacture/fabrication of RE equipment;

(3) Covered by shipping documents in the name of the duly registered manufacturer/fabricator to whom the shipment will be directly delivered by customs authorities; and

(4) Prior approval of the DOE is obtained before the importation of such components, parts and materials.

The importation of components, parts, and materials as allowed herein shall not be subject to the issuance of an Authority to Release Imported Goods (ATRIG) under Revenue Memorandum Order (RMO) No. 35-2002, as amended; and may be released by the Bureau of Customs (BOC) without need of an ATRIG. The BIR, however, may conduct a post investigation/audit on the importations released by the BOC without ATRIG pursuant to these Regulations.

*B. **Income Tax Holiday and Exemption*** – For seven (7) years starting from the date of registration and accreditation with the appropriate government agencies, such as the DOE and the BOI, an RE manufacturer, fabricator, and supplier of RE equipment shall be fully

exempt from income taxes levied by the National Government on net income derived only from the sale of RE equipment, machinery, parts, and services.

C. ***Zero-Rated Value-Added Tax Transaction*** – All manufacturers, fabricators, and suppliers of locally-produced RE equipment shall be subject to zero-rated VAT on their transactions with local suppliers of goods, properties, and services needed in the manufacture/fabrication of RE equipment; *Provided,* that the local suppliers of goods, properties, and services shall require the manufacturers, fabricators, and suppliers of locally-produced RE equipment the following documents for purposes of future tax audit/refund:

(1) BOI Registrations of the manufacturer/fabricator/supplier and of the recipient RE Developer; and

(2) DOE Registration/Accreditation of the manufacturer/fabricator/supplier and of the recipient RE Developer.

SECTION 7. INCENTIVES FOR FARMERS ENGAGED IN THE PLANTATION OF BIOMASS RESOURCES – All individuals and entities engaged in the plantation of crops and trees used as Biomass Resources shall be exempt from payment of VAT on all types of agricultural inputs, equipment, and machinery within ten (10) years from the effectivity of the Act, subject to the certification by the DOE and the following conditions:

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(a) That the crops and trees such as, but not limited to, jatropha, coconut, and sugarcane shall be actually utilized for the production of Biomass resources; and

(b) That the agricultural inputs, equipment and machinery such as, but not limited to, fertilizers, insecticides, pesticides, tractors, trailers, trucks, farm implements and machinery, harvesters, threshers, hybrid seeds, genetic materials, sprayers, packaging machinery and materials, bulk handling facilities, such as conveyors and mini-loaders, weighing scales, harvesting equipment, and spare parts of all agricultural equipment shall be used actually and primarily for the production of the said Biomass Resources.

SECTION 8. TAX REBATE FOR PURCHASE OF RE COMPONENTS. - Purchasers of RE equipment for residential, industrial or community use shall be entitled to a rebate equivalent to the VAT passed on to the said purchasers. The rebate shall only be available to purchasers who are not VAT-registered and shall be in the form of a tax credit from the income tax liability of the purchasers during the year of purchase. Any unutilized rebate or tax credit shall be forfeited.

SECTION 9. PROHIBITION AGAINST DOUBLE AVAILMENT OF INCENTIVES. Unless otherwise provided by law, the registration/accreditation to avail of incentives under this Act shall disqualify the availment of other tax and non-tax incentives under the National Internal Revenue Code, as amended by RA No. 11534, otherwise known as the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act.

SECTION 10. ANNUAL FILING AND REPORTORIAL REQUIREMENTS. RE Developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment availing the incentives provided for in the Act shall comply with the filing and reportorial requirements under RA No. 11534 or the CREATE Act. Non-compliance with the filing and reportorial requirements shall be meted with the penalties under the law.

SECTION 11. SEPARABILITY CLAUSE. - If any provision of these Regulations is declared invalid by a competent court, the remainder of these Regulations or any provision not affected by such declaration of invalidity shall remain in force and effect.

SECTION 12. REPEALING CLAUSE. – The provisions of any regulations, rulings or orders, or portions thereof which are inconsistent with the provisions of these Regulations are hereby revoked, repealed or amended accordingly.

SECTION 13. EFFECTIVITY. – These Regulations shall take effect fifteen (15) days following its publication in the official gazette or in a newspaper of general circulation, whichever comes first.

CARLOS G. DOMINGUEZ
Secretary of Finance

JUN 28 2022

Recommending Approval:

CAESAR R. DULAY
Commissioner of Internal Revenue

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