

[BIR REVENUE REGULATIONS NO. 6-97, January 01, 1997]

IMPLEMENTING REPUBLIC ACT NO. 8241, AN ACT AMENDING REPUBLIC ACT NO. 7716, OTHERWISE KNOWN AS THE EXPANDED VALUE-ADDED TAX LAW, AND OTHER PERTINENT PROVISIONS OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FURTHER AMENDING REVENUE REGULATIONS NO. 7-95, AS AMENDED, OTHERWISE KNOWN AS THE CONSOLIDATED VALUE-ADDED TAX REGULATIONS

Pursuant to the provisions of Sections 245 and 4 of the National Internal Revenue Code, as amended (Code), in relation to the provisions of Executive Order (EO) No. 273, as amended by Republic Act (RA) No. 7716, and as further amended by RA No. 8241, these Regulations are hereby promulgated to further implement Sections 102, 103, 105, 107 and 110(c) of Title IV, Sections 112, 115, 115-A and 117 of Title V and Section 237 of Title IX, all of the Code, and to further amend Revenue Regulations (Rev. Regs.) No. 7-95, as amended, otherwise known the "Consolidated Value-Added Tax Regulations."

SECTION 1. Value-Added Tax on Sale of Goods or Properties. — Section 4.100-1, paragraph 4 of Rev. Regs. No. 7-95 is hereby amended to read as follows:

"Any person otherwise required to register for VAT purposes who fails register shall be liable to VAT on his sale of taxable goods or properties x x x x x. The sale and importation of goods subject to excise taxes imposed under Title VI of the Code are also subject to VAT, except coal and natural gas in whatever form or state, and manufactured petroleum products (other than lubricating oil, processed gas, grease, wax and petroleum).

SECTION 2. Value-Added Tax on Sale of Services and Use or Lease of Properties. — Section 4.102-1 (a), (f) and (h) of Rev. Regs. No. 7-95 is hereby amended to read as follows:

"(a) Sale or exchange of services, as well as the use or lease of properties, as defined in Sec. 102(a) of the Code, shall be subject to VAT.

"Sale or exchange of services" means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration, including those performed or rendered by the following:

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- " transportation contractors on their transport of goods or (11) cargoes, including persons who transport goods or cargoes for hire;
- " other domestic common carriers by land, air and water

- (12) relative to their transport of goods or cargoes;
- " franchise grantees of telephone and telegraph, radio and/or
- (13) television broadcasting and all other franchise grantees except franchise grantees of radio and/or television broadcasting whose annual gross receipts of the preceding year does not exceed Ten Million Pesos (P10,000,000.00), and franchise grantees of electric gas and water utilities;
- " banks, non-bank financial intermediaries and finance
- (14) companies and other financial intermediaries not performing quasi-banking functions;
- " non-life insurance companies (except their crop insurances),
- (15) including surety, fidelity, indemnity and bonding companies; and
- " similar services regardless of whether or not the
- (16) performance thereof calls for the exercise or use of the physical or mental faculties.

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"(f) Services of franchise grantees of telephone and telegraph, radio and/or television broadcasting and all other franchise grantees, except electric, gas and water utilities, shall be subject to VAT. However, franchise grantees of radio and/or television broadcasting whose annual gross receipts of the preceding year does not exceed Ten Million Pesos (P10,000,000.00) shall not be subject to VAT, but to the three percent (3%) franchise tax imposed under Sec. 117 of the Code, subject to the optional registration provisions under Sec. 4.107-1(c) of Rev. Regs. No. 7-95, as amended by these Regulations.

Likewise, franchise grantees of electric, gas and water utilities shall be subject to two percent (2%) franchise tax on their, gross receipts derived from the business covered by me law granting me franchise pursuant to Sec. 117 of the Code."

Provided, further, That all franchise grantees not falling under Sec. 117 of the Code are also no longer subject to me franchise tax on their gross receipts derived from their franchised operations under their respective charters.

Franchise grantees of telephone and telegraph shall be subject to VAT on their gross receipts derived from their telephone, telegraph, telewriter exchange, wireless and other communication equipment services. However, amounts received for overseas dispatch, message, or conversations originating from the Philippines are still subject to the percentage tax under Sec. 118 of the Code.

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"(h) All receipts from service, hire, or operating lease of transportation equipment not subject to the percentage tax on domestic common carriers and keepers of garages imposed under Sec. 115 of the Code shall be subject to VAT.

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"Operators of taxicabs, utility cars for rent or hire driven by the lessees (rent-a-car companies), and tourist buses used for the transport of passengers are subject to the percentage tax imposed under Sec. 115 of the Code, and NOT to VAT.

SECTION 3. Zero-rating. - Section 4.102-2(b) of Rev. Regs. No. 7-95 is hereby further amended to read as follows:

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

"(1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines, which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

"(2) Services other than processing, manufacturing or repacking for other persons doing business outside the Philippines of goods which are subsequently exported, as well as services by a resident to a non-resident foreign client, such as project studies, information services, engineering and architectural designs and other similar services, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSI, (RR No. 7-95, as amended by RR No. 5-96)

"(3) Service rendered to persons or entities whose exemption 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;

"(4) . . .

"(5) . . .

SECTION 4. Exemptions. — Section 4.1031 (B) of Rev. Regs. No. 7-95 is hereby amended to read as follows:

"(B) *Exempt transactions.* — The following shall be exempt from VAT:

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"(c) Sale or importation of agricultural and marine food products in their original state, livestock and poultry of a kind generally used as, or yielding or producing foods for human consumption; and breeding stock and genetic materials therefor.

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"Meat, fruit, fish, vegetable and other agricultural and marine food products shall be considered in their original date even if they have undergone the simple processes of preparation or preservation for the market, such as freezing, drying, salting, broiling, roasting, smoking or stripping, including those using advanced technological means of packaging, such as shrink wrapping in plastics, vacuum packing, tetra-pack, and other similar packaging methods.

"Polished and/or husked rice, corn grits, raw cane sugar and molasses and ordinary salt shall be considered as agricultural food products in their original state.

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"(e) Sale or importation of coal and natural gas, in whatever form or state, and petroleum products (except lubricating oil, processed gas, grease, wax and petrolatum) subject to the excise taxes imposed under Title VI of the Code;

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"(j) Services subject to percentage tax under Title V of the Code, such as:

"(1) Sale or lease of goods or properties or the performance of services of non-VAT-registered persons, other than the transactions mentioned in paragraphs (a) to (y) of Section 103 of the Code, the gross annual sales and/or receipts of which does not exceed the amount of FIVE HUNDRED FIFTY THOUSAND PESOS (P550,000.00): Provided, That not later than January 31, 1988 and each calendar year thereafter, the amount of P550,000.00 shall be adjusted to its present value using the Consumer Price Index, as published by the National Statistics Office (NO) (Sec. 112 of the Code);

"(2) Services rendered by domestic common carriers by land, air or water for the transport of passengers and keepers of garages (Sec. 115 of the Code);

"(3) Services rendered by international air and shipping carriers doing business in the Philippines (Sec. 115-A of the Code);

"(4) Services rendered by franchise grantees of radio and/or television broadcasting whose annual gross receipts of the preceding year does not exceed Ten Million Pesos (P10,000,000.00), and by franchise grantees of electric, gas and water utilities (Sec. 117 of the Code);

"(5) . . .

"(6) Services rendered by any person, company or corporation (except purely cooperative companies or associations) doing life insurance business of any sort in the Philippines (Sec. 121 of the Code);

"(7) Services rendered by fire, marine or miscellaneous insurance agents of foreign insurance companies (Sec. 122 of the Code);

"(8) Services of proprietors, lessees or operators of cockpits, cabarets, night or day clubs, boxing exhibitions, professional basketball games, Jai-Alai and race tracks (Sec. 123 of the Code); and

"(9) Receipts on sale, barter or exchange of shares of stock listed and traded through the local stock exchange or through initial public offering. (Sec. 124-A of the Code).

"(k) Services by agricultural contract growers and milling for others of palay into rice, corn into grits, and sugar cane into raw sugar;

"Agricultural contract growers" refer to those persons producing for others poultry, livestock or other agricultural and marine food products in their original state. The term "agricultural contract growers" shall also include reforestation contractors pursuant to the Government Reforestation Program.

"(l) Medical, dental, hospital and veterinary services, subject to the provisions of Sec. 15 of these Regulations.

"Laboratory services are also exempted. If the hospital or clinic operates a pharmacy or drug store, the sale of drugs and medicine is subject to VAT.

"(m) Educational services rendered by private educational institutions duly accredited by the Department of Education, Culture and Sports (DECS) and/or the Commission on Higher Education (CHED) and those rendered by government educational institutions;

"*Educational services*" shall refer to academic, technical or vocational education provided by private educational institutions duly accredited by the DECS and/or the CHED and those rendered by government educational institutions and it does not include seminars, in-service training, review classes and other similar services rendered by persons who are not accredited by the DECS and/or the CHED;

"(n) Sale of works of art, literary works, musical compositions and similar creations, or services performed for the production of such works, if sold by the artist himself, are exempt from VAT. If sold by other persons in the course of business, they shall be subject to VAT;

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"(q) Transaction which are exempt under international agreements to which the Philippines is a signatory or under special laws except those granted under the following laws:

"(1) PD No. 66 — Export Processing Zone Authority (EPZA)-registered firms;

"(2) PD No. 529 — Petroleum Exploration Concessionaires under the Petroleum Act of 1949; and

"(3) PD 1590 — Philippine Air Lines (PAL) relative to domestic transport of goods or cargoes;

"(r) Sales by agricultural cooperatives duly registered with the Cooperative Development Authority (CDA) to their members, as well as sale of their produce, whether in its original state or processed form, to non-members; their importation of direct farm inputs, machineries and equipment, including spare parts thereof, to be used directly and exclusively in the production and/or processing of their produce;

"(s) Sales by electric cooperatives duly registered with the CDA or National Electrification Administration (NEA), relative to the generation and distribution of electricity, as well as their importation of machineries and equipment, including spare parts, which shall be directly used in the generation and distribution of electricity.