REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

March 15, 2018

REVENUE REGULATIONS NO. 13-2018

SUBJECT: **Regulations Implementing the Value-Added Tax Provisions under the Republic Act (RA) No. 10963, or the "Tax Reform for Acceleration and Inclusion (TRAIN)," Further Amending Revenue Regulations (RR) No. 16-2005 (Consolidated Value-Added Tax Regulations of 2005), as Amended.**

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, and Section 84 of Republic Act (R.A) No. 10963 otherwise known as the "Tax Reform for Acceleration and Inclusion (TRAIN) Law, these Regulations are hereby promulgated to amend certain provisions of Revenue Regulations (RR) No. 16-2005, as amended, and implement the value-added tax (VAT) and percentage tax provisions of the TRAIN Law, hereby amending

SECTION 2. AMENDMENTS. Sections 4.106-5, 4.108-3, 4.108-5, 4.109-1, 4.109-2, 4.110-3, 4.112-1, 4.114-1, 4.114-2, and 4.116 of RR No. 16-2005, as amended, are hereby further amended to read as follows:

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

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);

(2) The sale of raw materials or packaging materials to a non-resident buyer for delivery to a resident local export-oriented enterprise to be used in manufacturing, processing, packing or repacking in the Philippines of the said buyer's goods, paid for in acceptable foreign currency, and accounted for in accordance with the rules and regulations of the BSP;

(3) The sale of raw materials or packaging materials to an export-oriented enterprise whose export sales exceed seventy percent (70%) of total annual production.

Any enterprise whose export sales exceed 70% of the total annual production of the preceding taxable year shall be considered an export-oriented enterprise.

(4) Transactions considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, and other special laws.

"*Considered export sales under Executive Order No. 226*" shall mean the Philippine port F.O.B. value determined from invoices, bills of lading, inward letters of credit, landing certificates, and other commercial documents, of export products exported directly by a registered export producer, or the net selling price of export products sold by a registered export producer to another export producer, or to an export trader that subsequently exports the same: *Provided, That* sales of export products to another producer or to an export trader shall only be deemed export sales when actually exported by the latter, as evidenced by landing certificates or similar commercial documents: *Provided, further,* That without actual exportation the following shall be considered constructively exported for purposes of these provisions: (1) sales to bonded manufacturing warehouses of export-oriented manufacturers; (2) sales to export processing zones; (3) sales to registered export traders operating bonded trading warehouses supplying raw materials in the manufacture of export products under guidelines to be set by the Board in consultation with the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC); (4) sales to diplomatic missions and other agencies and/or instrumentalities granted tax immunities, of locally manufactured, assembled or repacked products whether paid for in foreign currency or not.

For purposes of zero-rating, the export sales of registered export traders shall include commission income. The exportation of goods on consignment shall not be deemed export sales until the export products consigned are in fact sold by the consignee; and *Provided, finally,* that sales of goods, properties or services made by a VAT-registered supplier to a BOI-registered manufacturer/producer whose products are 100% exported are considered export sales. A certification to this effect must be issued by the Board of Investment (BOI) which shall be good for one year unless subsequently re-issued by the BOI.

(5) 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.

Provided, That **items (2), (3), and (4) abovementioned shall be subject to the twelve percent (12%) VAT 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 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, pending the establishment of the enhanced VAT Refund System shall only be up to the date of approval of the Recommendation Report on such application for VAT refund by the Commissioner or his duly authorized representative.

   However, all claims for refund/tax credit certificate filed prior to January 1, 2018 shall still be governed by the one hundred twenty (120)-day processing period.

   The Secretary of Finance shall provide transitory rules for the grant of refund under the enhanced VAT Refund System after the determination of the fulfilment 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 **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.**

(b) Sales to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects such sales to zero rate.

xxx xxx xxx

SEC. 4.108-3. **<u>Definitions and Specific Rules on Selected Services.</u> -**

xxx xxx xxx

(f) Sale of electricity by generation, transmission **<u>by any entity including the National Grid Corporation of the Philippines (NGCP)</u>**, and distribution companies **<u>including electric cooperatives</u>** shall be subject to **<u>twelve percent (12%)</u>** VAT on their gross receipts**.**

xxx xxx xxx

SEC. 4.108-5. **<u>Zero Rated Sale of Services. –</u>**

(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 related 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) 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 BSP;

(2) Services other than processing, manufacturing or repacking 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;

(3) Services 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) Services rendered to persons engaged in international shipping or air transport operations, including leases of property for use thereof: ***<u>Provided, that</u>*** **<u>these services shall be exclusively for international shipping or air transport operations</u>**. 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) Services performed by subcontractors and/or contractors in processing, converting, or manufacturing goods for an enterprise whose export sales exceed seventy percent (70%) of the total annual production;

(6) 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 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

(7) 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.

Provided, That **Subparagraphs (b)(1) and (b)(5) abovementioned shall be subject to the twelve percent (12%) VAT 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 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, pending the establishment of the enhanced VAT Refund System shall only be up to the date of approval of the Recommendation Report on such application for VAT refund by the Commissioner or his duly authorized representative.

   However, all claims for refund/tax credit certificate filed prior to January 1, 2018 shall still be governed by the one hundred twenty (120)-day processing period.

   The Secretary of Finance shall provide transitory rules for the grant of refund under the enhanced VAT Refund System after the determination of the fulfilment 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 **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. 4.109-1. VAT-Exempt Transactions. –

xxx xxx xxx

(B) Exempt transactions. –

(1) Subject to the provisions of **Section 4.109.2** hereof, the following transactions shall be exempt from VAT:

(a) xxx

xxx xxx xxx

(d) Importation of professional instruments and implements, tools of trade, occupation or employment, wearing apparel, domestic animals, and personal and household effects belonging to persons coming to settle in the Philippines or Filipinos or their families and descendants who are now residents or citizens of other countries, such parties hereinafter referred to as overseas Filipinos, in quantities and of the class suitable to the profession, rank or position of the persons importing said items, for their own use and not for barter or sale, accompanying such persons, or arriving within a reasonable time: *Provided, That* the Bureau of Customs may, upon the production of satisfactory evidence that such persons are actually coming to settle in the Philippines and that the goods are brought from their former place of abode: *Provided, further,* that vehicles, vessels, aircrafts, machineries and other similar goods for use in manufacture, shall not fall within this classification and shall therefore be subject to duties, taxes and other charges;

(e) Services subject to percentage tax under Title V of the Tax Code, as enumerated below:

(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 (AA) of Sec. 109(1) of the Tax Code, the gross annual sales and/or receipts of which does not exceed the amount of **Three Million Pesos (P3,000,000.00)**.

xxx xxx xxx

(p) The following sales of real properties are exempt from VAT, namely:

(1) Sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business.

However, even if the real property is not primarily held for sale to customers or held for lease in the ordinary course of trade or business but the same is used in the trade or business of the seller, the sale thereof shall be subject to VAT being a transaction incidental to the taxpayer's main business.

(2) Sale of real properties utilized for low-cost housing as defined by RA No. 7279, otherwise known as the "Urban Development and Housing Act of 1992" and other related laws.

"*Low-cost housing*" refers to housing projects intended for homeless low-income family beneficiaries, undertaken by the Government or private developers, which may either be a subdivision or a condominium registered and licensed by the Housing and Land Use Regulatory Board/Housing (HLURB) under BP Blg. 220, PD No. 957 or any other similar law, **wherein the unit selling price is within the selling price per unit as set by the Housing and Urban Development Coordinating Council (HUDCC)** pursuant to RA No. 7279 otherwise known as the "Urban Development and Housing Act of 1992" and other laws.

(3) Sale of real properties utilized for socialized housing as defined under RA No. 7279, and other related laws, such as RA No. 7835 and RA No. 8763, wherein the price ceiling per unit is P450,000.00 or as may from time to time be determined by the HUDCC and the NEDA and other related laws.

"Socialized housing" refers to housing programs and projects covering houses and lots or home lots only undertaken by the Government or the private sector for the underprivileged and homeless citizens which shall include sites and services development, long-term financing, liberated terms on interest payments, and such other benefits in accordance with the provisions of RA No. 7279, otherwise known as the "Urban Development and Housing Act of 1992" and RA No. 7835 and RA No. 8763. "Socialized housing" shall also refer to projects intended for the underprivileged and homeless wherein the housing package selling price is within the lowest interest rates under the Unified Home Lending Program (UHLP) or any equivalent housing program of the Government, the private sector or non-government organizations.

(4) Sale of residential lot valued at One Million Five Hundred Thousand Pesos (P1,500,000.00) and below, or house & lot and other residential dwellings valued at Two Million Five Hundred Thousand Pesos (P2,500,000.00) and below**, as adjusted in 2011 using the 2010 Consumer Price Index values.**

If two or more adjacent residential lots are sold or disposed in favor of one buyer, for the purpose of utilizing the lots as one residential lot, the sale shall be exempt from VAT only if the aggregate value of the lots do not exceed P1,500,000.00. Adjacent residential lots, although covered by separate titles and/or separate tax declarations, when sold or disposed to one and the same buyer, whether covered by one or separate Deed of Conveyance, shall be presumed as a sale of one residential lot.

*Provided, **That*** **beginning January 1, 2021, the VAT exemption shall only apply to sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business, sale of real property utilized for socialized housing as defined by Republic Act No. 7279, sale of house and lot, and other residential dwellings with selling price of not more than Two Million Pesos (P2,000,000.00): *Provided, further,*** That every three (3) years thereafter, the amounts stated herein shall be adjusted to its present value using the Consumer Price Index, as published by the **Philippine Statistics Authority (PSA)**.

(q) Lease of residential units with a monthly rental per unit not exceeding **Fifteen Thousand Pesos (P15,000.00).**

The foregoing notwithstanding, lease of residential units where the monthly rental per unit exceeds **Fifteen Thousand Pesos (P15,000.00),** but the aggregate of such rentals of the lessor during the year do not exceed **Three Million Pesos (P3,000,000.00)** shall likewise be exempt from VAT; however, the same shall be subject to three percent (3%) percentage tax under Section 116 of the Tax Code.

In cases where a lessor has several residential units for lease, some are leased out for a monthly rental per unit of not exceeding **P15,000.00** while others are leased out for more than **P15,000.00** per unit, his tax liability will be as follows:

1. The gross receipts from rentals not exceeding **P15,000.00** per month per unit shall be exempt from VAT regardless of the aggregate annual gross receipts. It is also exempt from the 3% percentage tax.
2. The gross receipts from rentals exceeding **P15,000.00** per month per unit shall be subject to VAT if the aggregate annual gross receipts from said units only exceeds **P3,000,000.00**. Otherwise, the gross receipts will be subject to the 3% tax imposed under Section 116 of the Tax Code.

In case of mixed transactions, the abovementioned rule should be observed.

The term ***'residential units'*** shall refer to apartments and houses & lots used for residential purposes, and buildings or parts or units thereof used solely as dwelling places (e.g., dormitories, rooms and bed spaces) except motels, motel rooms, hotels and hotel rooms, **lodging houses, inns and pension houses**.

The term ***'unit'*** shall mean an apartment unit in the case of apartments, house in the case of residential houses; per person in the case of dormitories, boarding houses and bed spaces; and per room in case of rooms for rent.

Illustration 1: A lessor rents his 15 residential units for P14,500 per month. During the taxable year, his accumulated gross receipts amounted to P2,610,000. He is not subject to VAT since the monthly rent per unit does not exceed P15,000. He is also not subject to 3% Percentage Tax.

Using the same example, assuming he has 20 residential units with the same monthly rent per unit and his accumulated gross receipts during the taxable year amounted to P3,480,000, he is still not subject to VAT even if the accumulated earnings exceeded P3,000,000 since the monthly rent per unit does not exceed P15,000. He is also not subject to 3% Percentage Tax.

Illustration 2: A lessor rents his 15 residential units for P15,500 per month. During the taxable year, his accumulated gross receipts amounted to P2,790,000. He is not subject to VAT since his accumulated gross receipts did not exceed P3,000,000. He is, however, subject to 3% Percentage Tax since the monthly rent per unit is more than P15,000.00.

Using the same example, assuming he has 20 residential units with the same monthly rent per unit and his accumulated gross receipts during the taxable year amounted to P3,720,000, he is already subject to VAT since the accumulated earnings exceeded P3,000,000 and the monthly rent per unit is more than P15,000.00.

Illustration 3: A lessor rents his 2 commercial and 10 residential units for monthly rent of P60,000 and P15,000 per unit, respectively. During the taxable year, his accumulated gross receipts amounted to P3,240,000 (P1,440,000 from commercial units and P1,800,000 from residential units). The P1,440,000 from commercial units is not subject to VAT since it did not exceed P3,000,000. It is, however, subject to 3% Percentage Tax. On the other hand, the P1,800,000 accumulated receipts from the residential units are not subject to Percentage Tax and exempt from VAT since the monthly rent is not more than P15,000.

Using the same example, assuming the lessor has 5 commercial units and his accumulated gross receipts during the taxable year amounted to P5,400,000 (P3,600,000 from commercial units and P1,800,000 from residential units), he is subject to VAT with respect to P3,600,000 since it exceeded P3,000,000. The P1,800,000 accumulated receipts from residential units are not subject to Percentage Tax and exempt from VAT since the monthly rent is not more than P15,000.

Illustration 4: A lessor rents his 5 commercial and 10 residential units for monthly rent of P60,000 and P15,500 per unit, respectively. During the taxable year, his accumulated gross receipts amounting to P5,460,0000 (P3,600,000 from commercial units and P1,860,000 from residential units) shall be subject to VAT since it exceeded the P3,000,000 threshold and the monthly rent of residential units is more than P15,000.

xxx xxx xxx

(s) **Transport of passengers by international carriers;**

(t) **Sale, importation or lease of passenger or cargo vessels and aircraft, including engine, equipment and spare parts thereof for domestic or international transport operations:** *Provided, however,* that the exemption from VAT on the importation and local purchase of passenger and/or cargo vessels shall be subject to the requirements on restriction on vessel importation and mandatory vessel retirement program of Maritime Industry Authority (MARINA);

(u) **Importation of fuel, goods and supplies by persons engaged in international shipping or air transport operations: *Provided, That* the fuel, goods and supplies shall be used for international shipping or air transport operations.** Thus, said fuel, goods and supplies shall be used exclusively or shall pertain to the transport of goods and/or passenger 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 or supplies is used for purposes other than that mentioned in this paragraph, such portion of fuel, goods and supplies shall be subject to twelve percent (12%) VAT;

(v) **Services of banks, non-bank financial intermediaries performing quasi-banking functions, and other non-bank financial intermediaries** such as money changers and pawnshops, subject to percentage tax under Secs. 121 and 122, respectively, of the Tax Code;

(w) **Sale or lease of goods and services to senior citizens and persons with disabilities, as provided under Republic Act Nos. 9994 (Expanded Senior Citizens Act of 2010) and 10754 (An Act Expanding the Benefits and Privileges of Persons with Disability), respectively**;

(x) **Transfer of Property pursuant to Section 40(C)(2) of the Tax Code, as amended**;

(y) **Association dues, membership fees, and other assessments and charges collected on a purely reimbursement basis by homeowners' associations and condominium corporations established under Republic Act No. 9904 (Magna Carta for Homeowners and Homeowners' Association) and Republic Act No. 4726 (The Condominium Act), respectively;**

(z) **Sale of gold to the Bangko Sentral ng Pilipinas;**

(aa) **Sale of drugs and medicines prescribed for diabetes, high cholesterol, and hypertension to beginning January 1, 2019 as determined by the Department of Health; and**

(bb) Sale or lease of goods or properties or the performance of services other than the transactions mentioned in the preceding paragraphs, the gross annual sales and/or receipts do not exceed the amount of **Three Million Pesos (P3,000,000.00).**

Self-employed individuals and professionals availing of the 8% tax on gross sales and/or receipts and other non-operating income, under Sections 24(A)(2)(b) and 24(A)(2)(c)(2)(a) of this Code shall also be exempt from the payment of twelve (12%) VAT.

Illustration 5: Mr. JMLH signified his intention to be taxed at "8% income tax in lieu of the graduated income tax rates and percentage tax under Section 116" in his 1st Quarter Income Tax. However, his gross sales/receipts during the taxable year have exceeded the VAT threshold as follows:

		Amount
January		Php 250,000.00
February		250,000.00
March		250,000.00
April		250,000.00
May		250,000.00
June		250,000.00
July		250,000.00
August		250,000.00
September		250,000.00
October	Php 1,000,000.00	
November	1,000,000.00	
December	1,000,000.00	3,000,000.00
Total gross Sales/Receipts		**Php 5,250,000.00**

Mr. JMLH lost the option to pay the 8% commuted tax rate when his gross sales/receipts exceeded the three million threshold during the 4th Quarter. For business tax purposes, he is subject to the 12% VAT prospectively starting November 2018. He is also required to update his registration from non-VAT to VAT on or before November 30, 2018.

SEC. 4.109-2. **Exempt Transactions May be Registered for VAT Purposes.** — A VAT-registered person may, in relation to Sec. 236 (H) of the 1997 Tax Code, as amended, elect that the exemption in Sec. 4.109-1(B) hereof shall not apply to his sales of goods or properties or services. Once the election is made, it shall be irrevocable for a period of three (3) years counted from the quarter when the election was made except for franchise grantees of radio and TV broadcasting whose annual gross receipts for the preceding year do not exceed ten million pesos (P10,000,000.00) where the option becomes perpetually irrevocable.

Illustration 6: WPM is a rice dealer. His total annual gross sales and/or receipts do not exceed Three Million (P3,000,000.00), allowing him to avail the following:

(a) WPM is a VAT-exempt taxpayer. He may elect to avail of the optional registration for VAT of exempt person under Section 236 (H) of the 1997 Tax Code, as amended. Upon election of such option, he shall not be entitled to cancel his VAT registration for the next three (3) years;

(b) WPM may elect to pay the 8% commuted tax rate on gross sales or receipts and other non-operating income in lieu of the graduated income tax rates and the percentage tax under Section 24(A)(2)(b) of the 1997 Tax Code, as amended, since his gross sales or receipts did not exceed Three Million Pesos (P3,000,000) during the taxable year. If he elects to pay the 8% commuted tax, he shall not be allowed to avail of the optional registration for VAT of exempt person provided by Section 236(H) of the 1997 Tax Code, as amended.

SEC. 4.110-3. **Claims for Input Tax on Depreciable Goods.** – Where a VAT-registered person purchases or imports capital goods, which are depreciable assets for income tax purposes, the aggregate acquisition cost of which (exclusive of VAT) in a calendar month exceeds One Million pesos (P1,000,000.00), regardless of the acquisition cost of each capital good, shall be claimed as credit against output tax in the following manner:

(a) If the estimated useful life of a capital good is five (5) years or more - The input tax shall be spread evenly over a period of sixty (60) months and the claim for input tax credit will commence in the calendar month when the capital good is acquired. The total input taxes on purchases or importations of this type of capital goods shall be divided by 60 and the quotient will be the amount to be claimed monthly.

(b) If the estimated useful life of a capital good is less than five (5) years — The input tax shall be spread evenly on a monthly basis by dividing the input tax by the actual number of months comprising the estimated useful life of the capital good. The claim for input tax credit shall commence in the calendar month that the capital goods were acquired.

Where the aggregate acquisition cost (exclusive of VAT) of the existing or finished depreciable capital goods purchased or imported during any calendar month does not exceed One million pesos (P 1,000,000.00), the total input taxes will be allowable as credit against output tax in the month of acquisition.

Capital goods or properties refers to goods or properties with estimated useful life greater than one (1) year and which are treated as depreciable assets under Sec. 34(F) of the Tax Code, used directly or indirectly in the production or sale of taxable goods or services.

The aggregate acquisition cost of depreciable assets in any calendar month refers to the total price, excluding the VAT, agreed upon for one or more assets acquired and not on the payments actually made during the calendar month. Thus, an asset acquired on installment for an acquisition cost of more than P1,000,000.00, excluding the VAT, will be subject to the amortization of input tax despite the fact that the monthly payments/installments may not exceed P1,000,000.00.

Construction in progress (CIP) is the cost of construction work which is not yet completed. CIP is not depreciated until the asset is placed in service. Normally, upon completion, a CIP item is reclassified and the reclassified asset is capitalized and depreciated.

CIP is considered, for purposes of claiming input tax, as a purchase of service, the value of which shall be determined based on the progress billings. Until such time the construction has been completed, it will not qualify as capital goods as herein defined, in which case, input tax credit on such transaction can be recognized in the month the payment was made: *Provided, that* an official receipt of payment has been issued based on the progress billings.

In case of contract for the sale of service where only the labor will be supplied by the contractor and the materials will be purchased by the contractee from other suppliers, input tax credit on the labor contracted shall still be recognized on the month the payment was made based on a progress billings while input tax on the purchase of materials shall be recognized at the time the materials were purchased.

Once the input tax has already been claimed while the construction is still in progress, no additional input tax can be claimed upon completion of the asset when it has been reclassified as a depreciable capital asset and depreciated.

<u>(c) The amortization of the input VAT shall only be allowed until December 31, 2021 after which taxpayers with unutilized input VAT on capital goods purchased or imported shall be allowed to apply the same as scheduled until fully utilized</u>: *Provided, That* in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or fee.

<u>Illustration 7: ABC Corporation sold capital goods on installment on October 1, 2018. It is agreed that the selling price, including the VAT, shall be payable in five (5) equal monthly installments with the first installment to be paid on October 1, 2018. The data pertinent to the sold assets are as follows:</u>

Selling price	-	P 5,000,000 (exclusive of VAT)
Passed-on VAT	-	P 600,000
Original Cost of Asset	-	P 3,000,000
Accumulate Depreciation at the time of sale	-	P 1,000,000
Unutilized Input Tax (Sold Asset)	-	P 100,000

Accounting Entries:

SELLER			BUYER		
October 1, 2017			**October 1, 2017**		
Cash	P1,120,000		Asset	P5,000,000	
Installment Receivable	4,480,000		Input Tax	500,000	
Accumulated Depreciation	1,000,000				
Output Tax		600,000	Cash		1,120,000
Asset		3,000,000	Installment Payable		4,480,000
Gain on sale of set		3,000,000			
To record VAT liability:					
Output Tax	600,000				
Input tax		100,000			
VAT Payable		500,000			
Periodic receipt of installment			**Periodic Subsequent Payment:**		
Cash	1,120,000		Installment payable	1,120,000	
		1,120,000	Cash		1,120,000

* The input tax of P600,000.00 shall be spread evenly over a period of 60 months starting on October 2018 of purchase.

If the depreciable capital good is sold/transferred within a period of five (5) years or prior to the exhaustion of the amortizable input tax thereon, the entire unamortized input tax on the capital goods sold/transferred can be claimed as input tax credit during the month/quarter when the sale or transfer was made.

<u>Illustration 8: A manufacturer purchased capital goods on different occasions as follows:</u>

Month of Purchase	**Amount (Php)**	**12% Input Tax**	**Useful Life**	**No. of Monthly Amortization**	**Last Month of Amortization**
January 2018	Php 8,500,000	Php 1,020,000	6 years	60	December 2022
February 2018	8,500,000	1,020,000	4 years	48	January 2022
December 2018	10,000,000	1,020,000	5 years	60	November 2022
January 2018	10,000,000	1,020,000	5 years	-	*Outright claim on January 2022

a) **<u>For purchase made on January 2018, the amortization shall be for the shorter period of 5 years only or up to December 2022 although the useful life is 6 years.</u>**
b) **<u>For purchase made on February 2018, the amortization shall be for period of 4 years only or up to January 2022 since the useful life of the asset is shorter than 5 years.</u>**
c) **<u>For purchase made on December 2021, the amortization shall be for the period of 5 years or up to November 2026.</u>**
d) **<u>For purchase made on January 2022, no amortization shall be made and the input VAT shall be claimed on the month of purchase or January 2022.</u>**

xxx xxx xxx

SEC. 4.112-1. **<u>Claims for Refund/Credit of Input Tax. –</u>**

(a) Zero-rated and Effectively Zero-rated Sales of Goods, Properties or Services

A VAT-registered person whose sales of goods, properties or services are zero-rated or effectively zero-rated may apply for the issuance of a tax refund of input tax attributable to such sales. The input tax that may be subject of the claim shall exclude the portion of input tax that has been applied against the output tax. The application should be filed within two (2) years after the close of the taxable quarter when such sales were made.

In case of zero-rated sales under Secs. 106(A)(2)(a)(1) and (3), Secs. 108(B)(1) and (2) of the Tax Code, the payments for the sales must have been made in acceptable foreign currency duly accounted for in accordance with the BSP rules and regulations.

Where the taxpayer is engaged in both zero-rated or effectively zero-rated sales and in taxable (including sales subject to final withholding VAT) or exempt sales of goods, properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, only the proportionate share of input taxes allocated to zero-rated or effectively zero-rated sales can be claimed for refund or issuance of a tax credit certificate.

In the case of a person engaged in the transport of passenger and cargo by air or sea vessels from the Philippines to a foreign country, the input taxes shall be allocated ratably between his zero-rated sales and non-zero-rated sales (sales subject to regular rate, subject to final VAT withholding and VAT-exempt sales).

(b) Cancellation of VAT registration

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 Sec. 106 (C) of the Tax Code may, within two (2) years from the date of cancellation, apply for the issuance of tax credit certificate for any unused input tax which he may use in payment of his other internal revenue taxes: *Provided, however,* that he shall be entitled to a refund if he has no internal revenue tax liabilities against which the tax credit certificate may be utilized: ***Provided, further*, that the date of cancellation being referred hereto is the date of issuance of tax clearance by the BIR, after full settlement of all tax liabilities relative to cessation of business or change of status of the concerned taxpayer: *Provided, finally*, that the filing of the claim shall be made only after completion of the mandatory audit of all internal revenue tax liabilities covering the immediately preceding year and the short period return and the issuance of the applicable tax clearance/s by the appropriate BIR Office which has jurisdiction over the taxpayer.**

(c) Where to file the claim for refund/credit

Claims for refunds shall be filed with the appropriate Bureau of Internal Revenue (BIR) Office (Large Taxpayers Service (LTS), Revenue District Office (RDO)) having jurisdiction over the principal place of business of the taxpayer. Claims for input tax refund of direct exporters shall be exclusively filed with the VAT Credit Audit Division (VCAD).

(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, pending the establishment of the enhanced VAT Refund System shall only be up to the date of approval of the Recommendation Report on such application for VAT refund by the Commissioner or his duly authorized representative: *Provided, That* all claims for refund/tax credit certificate filed prior to January 1, 2018 will be governed by the one hundred twenty (120)-day processing period.

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: ***Provided, however*, 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.**

(e) Manner of giving refund

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 Chairman, Commission on Audit (COA), the provision of the Revised Administrative Code to the contrary notwithstanding: *Provided, That* refunds under this paragraph shall be subject to post audit by the COA.

(f) VAT Refund Center

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.

(g) Automatic Appropriation

An amount equivalent to five percent (5%) of the total VAT collection of the BIR and the BOC from the immediately preceding year shall be automatically appropriated annually and shall be treated as a special account in the general fund or as trust receipts for the purpose of funding claims for VAT refund: *Provided, That* any unused fund, at the end of the year shall revert to the general fund.

(h) Quarterly Report

The BIR and BOC shall be required to submit to the Congressional Oversight Committee on the Comprehensive Tax Reform Program (COCCTRP) a quarterly report of all pending claims for refund and any unused fund.

xxx xxx xxx

SEC.4-114-1. <u>Filing of Return and Payment of VAT.</u>

(A) ***Filing or Return.*** – Every person liable to pay the value-added tax imposed under this Title shall file a quarterly return of the amount of his gross sales or receipts within twenty-five (25) days following the close of each taxable quarter prescribed for each taxpayer. The term "*taxable quarter*" shall mean that quarter that is synchronized with the income tax quarter of the taxpayer (i.e., the calendar quarter or fiscal quarter): *Provided, however,* That VAT-registered persons shall pay the value-added tax on a monthly basis**:** ***<u>Provided, finally</u>*** **<u>That beginning January 1, 2023, the filing and payment required under the Tax Code shall be done within twenty-five (25) days following the close of each taxable quarter.</u>**

xxx xxx xxx

SEC.4-114-2. <u>Withholding of VAT on Government Money Payments and Payments to Non-Residents.</u>

(a) **Withholding of Value-added Tax.** – The Government or any of its political subdivisions, instrumentalities or agencies, including government-owned or -controlled corporations (GOCCs) shall, before making payment on account of each purchase of goods and services which are subject to the value-added tax imposed in Sections 106 and 108 of this Code, deduct and withhold the value-added tax imposed in Sections 106 and 108 of this Code, deduct and withhold a final value-added tax at the rate of five percent (5%) of the gross payment thereof: provided, that **<u>beginning January 1, 2021, the VAT withholding system under this subsection shall shift from final to a creditable system:</u>** ***<u>Provided, That</u>*** the payment for lease or use of properties or property rights to nonresident owners shall be subject to **<u>twelve</u>** percent **<u>(12%)</u>** withholding tax at the time of payment: ***<u>Provided, however</u>*****<u>, that payments for purchase of goods and services arising from projects funded by Official Development Assistance (ODA) as defined under Republic Act No. 8182, Otherwise known as the "Official Development Assistance Act of 1996," as amended, shall not be subject to the Final/Creditable Withholding Taxes as imposed in this subsection</u>.**

xxx xxx xxx

SEC.4-116. **<u>Tax on Persons Exempt from Value-added Tax (VAT).</u> —**

Any person whose sales or receipts are exempt under Section 109 (1) (BB) of the Tax Code from the payment of value-added tax and who is not a VAT-registered person shall pay a tax equivalent to three percent (3%) of his gross quarterly sales or receipts: ***<u>Provided, however</u>*****<u>, that the following shall be exempt from the payment of three percent (3%) percentage tax:</u>**

1. **<u>Cooperatives: and</u>**

<u>2. Self-employed individuals and professionals availing of the 8% tax on gross sales and/or receipts and other non-operating income, under Sections 24(A)(2)(b) and 24(A)(2)(c)(2)(a) of the Tax Code, as amended..</u>

xxx xxx xxx

SECTION 13. TRANSITORY PROVISIONS. –

1. In relation to Section 109(1)(BB), an existing VAT-registered taxpayer whose gross sales/receipts in the preceding taxable year did not exceed the VAT threshold of P3,000,000.00 may continue to be VAT-registered taxpayer and avail of the "Optional Registration for Value-Added Tax of Exempt Person" provided by Section 236(H). Once availed, the taxpayer shall not be entitled to cancel the VAT registration for the next three (3) years.

2. A VAT-registered taxpayer who opted to register as Non-VAT as a result of the implementation of the TRAIN Law, shall immediately:

   a. submit an inventory list of unused invoices and/or receipts as of the date of filing of application for update of registration from VAT to Non-VAT, indicating the number of booklets and its corresponding serial numbers; and

   b. surrender the said invoices and/or receipts for cancellation.

   A number of unused invoices/receipts, as determined by the taxpayer with the approval of the appropriate BIR Office, may be allowed for use, provided the phrase **"Non-VAT registered as of (*<u>date of filing an application for update of registration</u>*). Not valid for claim of input tax."** shall be stamped on the face of each and every copy thereof, until new registered non-VAT invoices or receipts have been received by the taxpayer. Upon such receipt, the taxpayer shall submit a new inventory list of, and surrender for cancellation, all unused previously-stamped invoices/receipts.

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 are effective beginning January 1, 2018, the effectivity of the TRAIN Law.

(Original Signed)
CARLOS G. DOMINGUEZ
Secretary of Finance

Recommending Approval:

(Original Signed)
CAESAR R. DULAY
Commissioner of Internal Revenue