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

28 January 2019

**REVENUE MEMORANDUM ORDER NO. 10-2019**

SUBJECT: Grant of Value-added Tax (VAT) Privileges to Resident Foreign Missions, their Qualified Personnel and the Dependents of the Latter

TO: All Internal Revenue Officials, Employees and Others Concerned

## I. PURPOSE AND OBJECTIVES

It has come to the attention of the Bureau of Internal Revenue (BIR) that a number of business establishments in the Philippines do not honor and recognize the VAT Exemption Certificate and/or VAT Exemption Identification Card issued by this Bureau, citing as basis for the non-acceptance the provisions of Revenue Memorandum Order (RMO) No. 22-2004 on item E (VAT-Registered Establishments),[1] thereby creating an erroneous interpretation that said RMO covers only the six (6) business establishments enumerated in Annex A thereof. Also, the BIR has been receiving information on the misuse of VAT Certificates by unqualified claimants. To address the foregoing concerns, there is a need to:

A. inform and give right direction to **ALL** business establishments in giving effect to the reciprocal VAT privileges accorded to foreign missions,[2] their qualified personnel and qualified dependents of the latter, by honoring the BIR-issued VAT Certificate and/or VAT card duly presented at the point of sale;

B. provide a sufficient basis to entitle **ALL** VAT-registered business establishments to an outright zero percent (0%) VAT (*in lieu of the required prior approval of zero-rating imposed by Revenue Regulations No. 7-95*), on their transactions to qualified foreign missions, their qualified personnel and the qualified dependents of the latter under this RMO;

C. avoid misuse and curb possible abuse of the VAT privileges which are being accorded only to those qualified and/or entitled thereto; and

[1] Entitled "Value-Added Tax (VAT) Exemption Certificate/Identification Card Issued to Qualified Foreign Embassies and their Qualified Personnel Amending/Modifying RMO 81-99".
[2] Resident Foreign Missions refer to foreign embassies and consulates in the Philippines.

D. revise RMO No. 22-2004.

## II. LEGAL BASIS FOR THE GRANT

The grant of VAT exemption to foreign missions, its qualified personnel, and dependent/s of the latter is based on the **international law principles of reciprocity and comity**, which were adopted as part of the law of our jurisdiction, pursuant to Article II, Section 2 of the 1987 Philippine Constitution.[3]

Under the principle of reciprocity, this Office may grant VAT privileges to a resident foreign mission, its qualified personnel and dependent/s of the latter on their local purchase of goods and/or services, subject to a categorical confirmation from the Office of Protocol of the Department of Foreign Affairs (DFA-OP) that the foreign government accords the same VAT privileges to the Philippine Foreign Service Posts (PFSPs) and its personnel on their purchase of goods and services in the concerned foreign country.

## III. VAT PRIVILEGES

Based on the principle of reciprocity, a resident foreign mission, its qualified personnel and the latter's dependent/s may be accorded VAT exemption on their purchase of goods and/or services *either* at POINT-OF-SALE *or on* REFUND/REIMBURSEMENT BASIS. The method of granting VAT exemption highly depends on the VAT privilege being accorded to our PFSPs by the different tax jurisdictions abroad, which is regularly monitored by the DFA-OP.

The updated list of countries/jurisdictions that grant PFSPs and their members VAT privileges on their purchase of goods and services is provided by the DFA-OP. The list and DFA-OP's endorsement on the tax privileges being enjoyed by all our PFSPs abroad shall serve as a guide for the International Tax Affairs Division (ITAD) of the BIR in determining whether or not the applicant is entitled to VAT privileges and therefore, should be issued a ruling, certificate, and/or card, as the case may be.

### A. POINT-OF-SALE EXEMPTION FROM VAT

**VAT Certificate** (**VC**) is the new name of VAT Exemption Certificate, while **VAT Identification Card** (**VIC**) is that of VAT Exemption Identification Card.

A resident foreign mission and its members who, as categorically endorsed by the DFA-OP, are entitled to the grant of VAT exemption at POINT-OF-SALE, will be issued with a VC. A VIC may be issued to qualified personnel and their qualified dependent/s, in lieu of a VC, subject to certain additional procedures in the production thereof. A sample copy of VC and VIC issued by the BIR

[3] "The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations."

will be posted in the BIR website[4] under the heading 'International Tax Matters' and sub-heading 'Taxation of Resident Foreign Missions and International Organizations'.

When a resident foreign mission or its qualified personnel is issued with a VC, the sellers cannot pass on any VAT to them on their official (for the foreign mission) or personal (for personnel) purchase of goods and services in the Philippines as such purchase qualify for zero rating under Sections 106(A)(2)(b) and 108(B)(3) of the National Internal Revenue Code of 1997 ("Tax Code"), as amended by Republic Act No. 10963, otherwise known as the Tax Reform for Acceleration and Inclusion (TRAIN) Act. The VC/VIC, however, cannot be used for the purpose of securing zero-rated VAT and/or ad valorem tax exemption on local purchase of *motor vehicle*. The procedure for the processing and issuance of BIR Ruling for the local purchase of motor vehicle by resident foreign missions and its qualified personnel is dealt with in Section VI[5] of this issuance.

B. REIMBURSEMENT AND/OR REFUND OF VAT

When a foreign mission and its members are categorically endorsed by the DFA-OP as entitled to the grant of VAT exemption thru REIMBURSEMENT or REFUND, the BIR will issue a RULING to confirm that the said foreign mission, its qualified personnel and the latter's dependent/s, are entitled to reimbursement/refund of VAT paid on purchase of goods and services in the Philippines. The duly issued BIR Ruling shall be the basis for the VAT reimbursement/refund applications and shall be attached to the claim for reimbursement/refund to be processed by the appropriate Revenue District Office (RDO) that has jurisdiction over the foreign mission. The BIR-ITAD shall furnish the RDO a copy of all issued BIR Rulings every end of the semester (i.e. June and January), and shall, from time to time, provide the RDO with an updated list of foreign missions which may be granted VAT reimbursement/refund on the basis of reciprocity.

## IV. APPLICATION PROCEDURES

A. WHO MAY APPLY

1. Resident Foreign Missions
2. Qualified personnel of resident foreign missions
3. Dependents (*i.e.* spouse or child/children at least eighteen years old) of qualified personnel of the resident foreign mission
4. Entities that are similarly categorized as missions, its personnel and the latter's dependents (*i.e.* Taipei Economic and Cultural Office [TECO])

[4] www.bir.gov.ph

[5] Procedure for the Application of BIR Ruling on Indirect Taxes Exemption on Local Purchase of Motor Vehicles by Resident Foreign Missions

B. GUIDELINES AND PROCEDURES

1. Documentary Requirements for First-Time Applicants

| Applicant | Documentary Requirements |
|---|---|
| Resident Foreign Mission | a. Note Verbale (letter)-application addressed to the DFA-OP for the issuance of VAT exemption privileges to the embassy |
| Resident Foreign Mission Personnel | a. Letter-application of the resident foreign mission of the concerned personnel addressed to the DFA-OP for the issuance of VAT exemption privileges to the personnel; and<br>b. Photocopy of the personnel's DFA ID. |
| Resident Foreign Mission Personnel's Dependent | a. Letter-application addressed to the DFA-OP for the issuance of VAT exemption privileges to the dependent of a qualified foreign mission personnel;<br>b. Photocopy of the foreign mission personnel's DFA ID;<br>c. Photocopy of the dependent's DFA ID; and<br>d. Photocopy of the existing VC/VIC of the foreign mission personnel (if there is any) |

2. Concerned offices and their respective functions in the processing of VC/VIC/BIR Ruling

| Offices | Functions |
|---|---|
| I. DFA-OP | i. Receive letter-application of the concerned resident foreign mission.<br>ii. Endorse the application to the BIR providing the following information:<br>▪ *Name* of foreign mission or the qualified personnel of the mission or latter's dependent, and the *rank/level* of the qualified personnel of the mission;<br>▪ Recommendation on the VAT exemption privilege to be accorded based on their findings with the PFSP (whether point-of-sale VAT exemption, or, VAT reimbursement/refund); |

| | |
|---|---|
| | ▪ The provision of the foreign law used as basis for the exemption given to the concerned PFSP, if possible.<br>▪ Whether the exemption privilege covers official or personal purchases;<br>▪ Type of goods/services covered by the exemption privilege; and<br>▪ Limitation on the amount of purchase to be entitled to exemption, if any.<br>iii. Furnish the BIR with a matrix on the VAT exemption privileges of the PFSPs and their members and regularly updates the said matrix. |
| II. BIR-ITAD | i. Check the completeness of the application, validate the entitlement of the foreign mission, its qualified personnel and the personnel's dependent/s, and prepare the VC/VIC, if entitled to VAT exemption at point-of-sale, or, BIR Ruling, if entitled to VAT reimbursement/refund.<br>ii. The Chief or, in his absence, the Assistant Chief shall forward the VC/VIC/BIR Ruling to the ACIR/HREA of the LS for signature.<br>iii. For rulings of first impression, the Commissioner of Internal Revenue shall sign the same.<br>iv. Release the signed VC/VIC/BIR Ruling only to the authorized representative of the foreign mission/qualified personnel of the foreign mission/latter's dependent. |

Upon receipt of the BIR Ruling confirming VAT exemption, the resident foreign mission, its qualified personnel or latter's dependent/s may proceed to secure reimbursement/refund of VAT paid within two (2) years after the close of the taxable quarter when the sales were made, following the procedure provided under *Section 112(A) of the Tax Code* and *Revenue Memorandum Circular (RMC) No. 54-2014, as amended*.

3. Processing of VAT Reimbursement/Refund
    a. The resident foreign mission/its qualified personnel/personnel's dependent/s shall send the letter-application for VAT reimbursement/refund to the DFA-OP with the following attachments:
        i. Duly accomplished BIR Form No. 1914
        ii. Summary of claims
        iii. Photocopies of sales invoices (for purchase of goods) and official receipts (for purchase of services)
        iv. Notarized sworn certification from the claimant or embassy attesting to the completeness and veracity of the documents

submitted and that no tax refund involving the same tax has previously been claimed or received

v. Photocopy of DFA ID and/or VIC.

vi. Documentary requirements at the back of BIR Form No. 1914.

b. DFA-OP shall endorse the application for VAT reimbursement/refund to the RDO No. 51 – Pasay City[6] for processing.

c. RDO No. 51 shall process the application within ninety (90) days[7] upon receipt of the application with complete documents.

4. Validity of VC/VIC

A qualified foreign mission shall be issued one (1) VC. A qualified personnel of a foreign mission and the qualified dependent/s of the latter (*i.e.* spouse, and in some cases, child/children) shall be issued separate VCs/VICs. The initially issued VC/VIC shall, in general, be effective for two (2) years, renewable every two (2) years thereafter, or until the expiration of the term of office of the qualified personnel of a foreign mission, unless sooner cancelled, revoked or suspended for a valid cause.

A valid VC shall bear the signature of the Assistant Commissioner (ACIR) or the Head Revenue Executive Assistant (HREA) of the Legal Service (LS) of the Bureau of Internal Revenue duly authorized by the Commissioner of Internal Revenue for this purpose, and the official seal of the Office.

Any alteration/erasure shall render the VC/VIC void.

5. Limitations on the use of VC/VIC

Some VCs/VICs provide for certain conditions and limitations (*e.g.* goods or services not covered or a minimum amount of purchase per invoice) on the grant of VAT exemption.

The sellers are, therefore, advised to strictly abide by such limitations before granting tax exemption at the point of sale.

6. Renewal of VC/VIC

a. Request for the renewal of a VC/VIC shall be filed *not later* than two (2) months before the date of expiration of the previously issued VC/VIC, following the same procedure as the first issuance.

b. DFA-OP shall determine if VAT exemption at point-of-sale may be still be granted to the concerned foreign mission/qualified personnel/personnel's

[6] RDO No. 51 is the district office that has jurisdiction over the Department of Foreign Affairs.

[7] Section 112(C) of the National Internal Revenue Code, as amended by the TRAIN Act.

dependent/s. If still entitled, the DFA-OP shall endorse the request to the BIR-ITAD for processing.

7. Expiration/Cancellation of VC/VIC
    a. The VC issued in favor of resident foreign missions shall be valid within two (2) years from the date of issue.

    b. The VC/VIC issued to the qualified personnel of the foreign mission and their dependents shall likewise be valid within two (2) years from the date of issue. However, if the mission personnel are relieved of duty in the Philippines prior to the expiration of the VC/VIC, they shall surrender immediately the VC/VIC issued to them and to their dependents to BIR-ITAD, thru the Resident Foreign Mission and the DFA-OP, for cancellation.

    c. In the event of suspension/cancellation of VAT exemption privilege given to PFSPs at the home country of the concerned foreign mission, DFA-OP shall inform BIR-ITAD and provide a copy of the foreign legislation/letter of the PFSP that serves as basis for such suspension. Considering that the grant of herein VAT privileges is based on the principle of reciprocity, BIR-ITAD shall likewise suspend/cancel the VAT exemption granted to the resident foreign mission, its personnel and latter's dependent/s.

       In the same manner, the DFA-OP shall inform BIR-ITAD and the foreign mission concerned of the resumption of VAT exemption privilege and shall provide the basis thereof.

    d. DFA-OP shall retrieve the VC/VIC from the concerned foreign mission and/or its personnel in cases of suspension/cancellation of VAT exemption privilege, and relief from duty of embassy personnel before the expiration of the VC/VIC, and forwards the same to BIR-ITAD for safekeeping.

    e. BIR-ITAD shall re-issue the VC/VIC in its custody to the concerned foreign mission/qualified foreign mission personnel/qualified dependents upon proper advise of the DFA-OP.

8. Lost or Destroyed VC/VIC
    a. The resident foreign mission of the lost/destroyed VC/VIC shall file a request for the issuance of a replacement copy, together with a duly notarized affidavit relating the circumstances attendant to the loss or destruction of VC/VIC, with the DFA-OP for endorsement to the BIR-ITAD. If the lost VC/VIC belongs to a dependent, a photocopy of the VC/VIC of the qualified personnel of the foreign mission shall also be attached.

b. BIR-ITAD shall issue a replacement copy of the VC/VIC based on the endorsement of the DFA-OP.

c. Lost VC/VIC subsequently found should be surrendered to BIR-ITAD for cancellation.

## V. DUTIES/RESPONSIBILITIES OF THE VC/VIC HOLDER AND BUSINESS ESTABLISHMENTS

A. Resident Foreign Mission/qualified personnel of the foreign mission/dependents of the latter

1. The duly authorized representative of the resident foreign mission shall present the **original** VC/VIC and his/her Special Power of Attorney or authorization letter upon each official purchase of goods and/or services.

2. The qualified personnel of the foreign mission and their dependent/s, shall present the DFA Identification Card (ID) together with the original VC or VIC, upon each personal purchase of goods/services.

B. All VAT-Registered Business Establishments in the Philippines shall:

1. Require the presentation of: a) VC and authorization of the foreign mission for foreign mission official purchase, or b) VC/VIC and DFA ID from qualified personnel of the foreign mission personnel/latter's dependent for personal purchase of goods and services.

2. Subject the sale of goods and/or services to qualified personnel/dependents of the latter to VAT at zero percent even without prior application for effective zero-rating.

   A zero-rated transaction refers to the sale, lease, barter or exchange of goods, properties and/or services subject to VAT at the rate of zero percent (0%) (Section 106 and 108 of the National Internal Revenue Code, Revenue Memorandum Circular No. 17-96).

3. Refuse to subject the sale of goods and/or services to zero percent VAT for failure to present the VC/VIC or if the holder of the VC/VIC is different from the person named therein.

4. Issue duly-registered official receipts (for purchase of services) or sales or commercial invoices (for purchase of goods) which must show the following information:
   a. Name, TIN and address of the seller;
   b. Date of transaction;
   c. Name and address of the Resident Foreign Mission (for mission purchase only);

d. Name and address of the qualified foreign mission personnel/qualified dependent;
e. DFA ID number;
f. VC/VIC number;
g. Quantity, unit cost (without VAT), and description of merchandise or nature of service;
h. Invoice value or consideration (without the VAT);
i. The word "ZERO-RATED" (to be prominently written or rubber stamped on the face of the invoice/receipt). (Revenue Regulations No. 2-88).

5. Dishonor the VC/VIC if it contains erasures/alterations or does not bear the original seal of the BIR. In case of doubt, verify details of VC/VIC with the BIR-ITAD at telephone numbers 927-0022 and 926-3420.

C. BIR-ITAD shall:
1. Maintain VC/VIC Register.

2. Receive and prepare replies to inquiries of all concerned taxpayers relative to the process and use of the VC/VIC, as well as the issuance of BIR Ruling confirming entitlement to VAT reimbursement/refund of a foreign mission.

D. RDO No. 51 shall:
1. Process applications for VAT reimbursement/refund of resident foreign mission/qualified personnel of the foreign mission/latter's dependents within ninety (90) days upon receipt of the application with complete documents.

2. Receive and prepare replies to inquiries of all concerned relative to the process of VAT reimbursement/refund.

## VI. ISSUANCE OF BIR RULING ON INDIRECT TAX EXEMPTION RELATIVE TO THE LOCAL PURCHASE OF MOTOR VEHICLES OF RESIDENT FOREIGN MISSIONS

A. Resident Foreign Mission shall send a letter-request to DFA-OP for a BIR Ruling on local purchase of motor vehicle for the official use of the foreign mission and/or personal use of a qualified foreign mission personnel indicating the details of the motor vehicle and the name of the foreign mission personnel, if for the latter's personal purchase.

B. A pro-forma invoice issued by the local car manufacturer/dealer must be attached to the letter-request indicating the motor vehicle details, such as: make, model, motor/engine number, frame/chassis number and color.

C. DFA-OP shall verify the entitlement of the foreign mission/qualified personnel of the foreign mission to indirect tax exemption based on reciprocity and endorse the same to the BIR through the Department of Finance.

D. The HO shall evaluate the application and draft the pertinent BIR Ruling.

E. The Chief or, in his/her absence, the Assistant Chief shall review the ruling and forward the same to the ACIR/HREA of LS for signature.

## VII. PENALTY CLAUSE

Any revenue official or employee who fails to act on the VAT refund application within the 90-day period shall be punished in accordance with Section 269 of the Tax Code, as amended.

## VIII. REPEALING CLAUSE

This Order shall amend or repeal RMO No. 22-2004 and all other issuances inconsistent herewith.

## IX. TRANSITORY PROVISION

Upon the effectivity of this Order, all holders of a valid and current VC/VIC may still continue to use the same until the end of the validity period.

## X. EFFECTIVITY

This Order shall take effect immediately.

All internal revenue officers and others concerned are hereby enjoined to give this Order the widest dissemination and publicity possible.

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

K-3