REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

January 3, 2019

REVENUE MEMORANDUM CIRCULAR NO. 2-2019

SUBJECT : Publishing the full text of Joint Administrative Order (JAO) No. 2-2018 entitled "Implementing Guidelines on the Value-Added Tax (VAT) Exemption of the Sale of Drugs Prescribed for Diabetes, High-Cholesterol and Hypertension under Republic Act No. 8424 Otherwise Known as the National Internal Revenue Code of 1997, as Amended by Republic Act No. 10963"

TO : All Internal Revenue Officials, Employees and Others Concerned

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For the information and guidance of all internal revenue officers, employees and others concerned, quoted hereunder is the full text of Joint Administrative Order No. 2-2018.

FDA Food and Drug Administration PHILIPPINES

"JOINT ADMINISTRATIVE ORDER NO. 2-2018

IMPLEMENTING GUIDELINES ON THE VALUE-ADDED TAX (VAT) EXEMPTION OF THE SALE OF DRUGS PRESCRIBED FOR DIABETES, HIGH CHOLESTEROL AND HYPERTENSION UNDER REPUBLIC ACT NO. 8424 OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED BY REPUBLIC ACT NO. 10963

Pursuant to Section 109 (AA) of Republic Act No. 8424, otherwise known as the "National Internal Revenue Code of 1997", as amended by Republic Act No. 10963, otherwise known as "Tax Reform for Acceleration and Inclusion (TRAIN) Law", the sale of drugs prescribed for diabetes, high cholesterol and hypertension shall be exempt from VAT beginning January 1, 2019.

In relation to this, the Department of Health (DOH), under Republic Act No. 9502 otherwise known as the "Universally Accessible Cheaper and Quality Medicines Act of 2008", is mandated to ensure the affordability and accessibility of medicines to promote the health and well-being of Filipinos. Specifically, the DOH is tasked to institute a drug price monitoring and regulation system under Chapter V, Rule 26 of the Implementing Rules and Regulation of the said Act.

To implement the above provision, the Secretaries of the Department of Finance (DOF) and the Department of Health (DOH), in coordination with the Commissioner of the Bureau of Internal Revenue (BIR) and the Director-General of the Food and Drug Administration (FDA), hereby promulgate the following guidelines:

I. OBJECTIVES

These implementing guidelines are being issued to achieve the following objectives:

1. To establish the general guidelines in the implementation of the VAT exemption of the sale of drugs prescribed for diabetes, high cholesterol and hypertension; and

2. To delineate the roles of the DOF, DOH, BIR and FDA for the proper implementation of the above.

II. COVERAGE AND SCOPE

These implementing guidelines shall apply to the sale by manufacturers, distributors, wholesalers and retailers of drugs prescribed for diabetes, high-cholesterol and hypertension in its final form.

The VAT-exemption granted to persons under Republic Act No. 7432, otherwise known as the "Senior Citizens Act of 1992", as amended, and Republic Act No. 7277, otherwise known as the "Magna Carta for Persons with Disability", as amended, on the VAT-exempt sales of drugs to senior citizens and persons with disabilities, respectively, shall not be covered by this issuance.

III. DEFINITION OF TERMS

For purposes of this implementing guidelines, the following terms are defined as follows:

1. *Diabetes Mellitus* refers to a group of chronic metabolic disorders characterized by hyperglycemia (high blood glucose levels) resulting from defects in either insulin secretion, insulin action or both. Diagnosis done with any of the following tests: (1) Fasting Blood Glucose of ≥ 126mg/dL (7.0 mmol/L); and (2) Random Plastma Glucose with classic symptoms of diabetes or Two-hour Oral Glucose Tolerance Test of ≥ 200 mg/dL (11.1 mmol/L).

2. *Distributor or Wholesaler* means any establishment that purchases drugs prescribed for the treatment of diabetes, high-cholesterol and hypertension, in its final form, for wholesale distribution to other establishments or outlets.

3. *Drugs* refer to pharmaceutical products that pertain to chemical compounds or biological substance, other than food, intended for use in the treatment of diabetes, high-cholesterol and hypertension, as approved and identified by the FDA.

4. *Electronic Drug Price Monitoring System (EDPMS)* – is a computer/web base solution with functionalities to capture, process, store and generates reports on drugs and inventories from drug establishments (Manufacturers, Distributor/Importer/Exporter) and drug outlets.

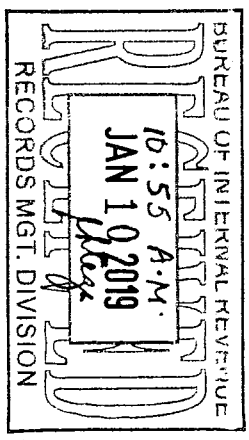
5. *High Cholesterol* refers to the elevation or above normal value of total cholesterol (normal is < 200 mg/dl). Total cholesterol includes high density lipoprotein (HDL) or "good cholesterol" and low density lipoprotein (LDL) or "bad cholesterol". People with high cholesterol is at risk of coronary artery disease, Heart Attack, and stroke among others.

6. *Hypertension* refers to a cardiovascular disease and defined as a blood pressure of ≥ 140/90 mm Hg taken on two separate occasions.

7. *Manufacturer* refers to any establishment engaged in any and all operations involved in the production of drugs prescribed for the treatment of diabetes, high cholesterol and hypertension including preparation, processing, compounding, formulating, filling, packaging, repackaging, altering, ornamenting, finishing and labeling with the end view of its storage sale or distribution; *Provided*, That the term shall not apply to the compounding and filling of prescriptions in drugstores and hospital pharmacies.

8. *Retailer* refers to any establishment that procures drugs prescribed for the treatment of diabetes, high cholesterol and hypertension, in its final form, and licensed by the FDA to carry on the retail business of sale of drugs directly to the general public.

IV. GENERAL GUIDELINES



1. The sale by manufacturers, distributors, wholesalers and retailers of drugs prescribed for the treatment of diabetes, high-cholesterol and hypertension in its final form shall be exempt from VAT imposed under Section 106 of the National Internal Revenue Code of 1997, as amended. The importation of the above-described drugs shall be subject to VAT under Section 107 of the National Internal Revenue Code of 1997, as amended;

2. The sale of drugs not included in the "List of VAT-exempt Diabetes, High-Cholesterol and Hypertension Drugs" published by the FDA shall not be exempt from VAT; and

3. In addition to the current list of drugs that the DOH is monitoring through the Electronic Drug Price Monitoring Systems (EDPMS), all drugs included in the VAT exemption list should also be reported by all manufacturers, distributors and retailers in the EDPMS in accordance with existing DOH guidelines; and

4. Within 60 days upon effectivity of these guidelines, all manufacturers, distributors and retailers shall submit to the DOH a sworn statement (Annex A) containing the wholesale price, suggested retail price and actual retail price prior to and after the effectivity of these guidelines.

V. ROLES AND RESPONSIBILITIES

For purposes of the full implementation of Section 109(AA) of the National Internal Revenue Code of 1997, as amended, apart from the inherent functions in their charters, the following government agencies are mandated to perform the following roles and responsibilities:

A. Department of Health

1. Provide technical guidance for the proper implementation of the subject provision;

2. Disseminate the "List of VAT-exempt Diabetes, High-Cholesterol and Hypertension Drugs" provided by FDA;

3. Through the Pharmaceutical Division:

   a. Monitor and study the impact of the VAT exemption of drugs for diabetes, high cholesterol and hypertension on the affordability and access of medicines for patients;

   b. Update the list of drugs in the EDPMS regularly based on the list of drugs submitted by the FDA;

   c. For the DOH, oversee and manage the overall implementation of these guidelines; and

   d. Coordinate with the relevant agencies for the proper implementation of the guidelines.

B. Department of Finance

1. Provide for policy guidance on the implementation of the VAT exemption of drugs for diabetes, high cholesterol and hypertension; and

2. Monitor the revenue impact of the VAT exemption.

C. Food and Drug Administration

1. Identify the drugs which are specifically prescribed for the treatment and/or prevention of diabetes, high-cholesterol and hypertension to be included in the "List of VAT-exempt Diabetes, High-Cholesterol and Hypertension Drugs";

2. Regularly update the "List of VAT-exempt Diabetes, High-Cholesterol and Hypertension Drugs", when drugs are registered or de-registered;

3. Provide the DOH and the BIR the "List of VAT-exempt Diabetes, High-Cholesterol and Hypertension Drugs" and any update thereto thirty (30) days prior the beginning of every quarter;

4. Require the posting of the "List of VAT-exempt Diabetes, High-Cholesterol and Hypertension Drugs" conspicuously in the place of business of manufacturers, wholesalers, distributors, and retailers of the VAT-exempt drugs, hospital pharmacies and other FDA-licensed establishments; and

5. Address issues relating to the "List of VAT-exempted Diabetes, High-Cholesterol and Hypertension Drugs" and the proper dispensation of medicines under Republic Act No. 9711, otherwise known as the "Food and Drug Administration Act of 2009", Republic Act No. 10918, otherwise known as the "Philippine Pharmacy Act", and other applicable laws.

D. Bureau of Internal Revenue

1. Formulate the appropriate revenue issuance to implement the availment of the VAT-exemption;

2. For the information of taxpayers, publish the "List of VAT-exempt Diabetes, High-Cholesterol and Hypertension Drugs" and any updates thereto through the issuance of a revenue memorandum circular;

3. Provide revenue data to the Department of Finance;

4. Address complaints on violation of invoicing requirements and other VAT-related issues in the availment of the exemption.

VI. PENALTIES AND OTHER SANCTIONS

The applicable penalties under the National Internal Revenue Code of 1997, as amended, and other laws shall apply.

VII. SEPARABILITY CLAUSE

In the event that any provision or part of this implementing guidelines is declared unenforceable or rendered invalid by any court of law or competent authority, those provisions not affected by such declaration shall remain valid and effective.

VIII. REPEALING CLAUSE

All administrative issuance, circulars and memorandum inconsistent with this implementing guidelines are hereby withdrawn, repealed and/or revoked accordingly.

IX. EFFECTIVITY

These guidelines shall take effect on January 1, 2019 following its complete publication in at least one (1) newspaper of general circulation.

Adopted this 21st day of December, 2018 in Manila, Philippines.

Original signed
FRANCISCO T. DUQUE III, MD, MSc
Secretary, Department of Health

Original Signed
CARLOS G. DOMINGUEZ
Secretary, Department of Finance

Original signed
NELA CHARADE GALANG-PUNO, RPh.
Director-General, Food and Drug Administration

Original Signed
CAESAR R. DULAY
Commissioner, Bureau of Internal Revenue"

All revenue officials and employees are hereby enjoined to give this Circular as wide a publicity as possible.

CAESAR R. DULAY
Commissioner of Internal Revenue

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