REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

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3:15 P.M.
JUN 07 2019
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Date: June 7, 2019

REVENUE MEMORANDUM CIRCULAR No. 60-2019

SUBJECT : **Clarifying the Provisions of Revenue Memorandum Circular (RMC) No. 9-2018 on the Documentary Requirements for the Processing of the Electronic Certificate Authorizing Registration (eCAR)**

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

This Circular is hereby issued to clarify the guidelines in determining the tax treatment of transfer of real property by an Economic Zone (Ecozone) Developer/Operator duly registered under the Philippine Economic Zone Authority (PEZA) to another PEZA entity, and the documentary requirements for the processing of eCAR under RMC No. 9-2018.

Pursuant to Section 24 of Republic Act (RA)No. 7916 otherwise known as Special Economic Zone Act of 1995, as amended by RA No. 8748, PEZA-registered enterprises availing of five percent (5%) final tax on Gross Income Earned (GIE) incentive from their registered activities are exempt from all national and local taxes, to wit:

> "**SECTION 24. Exemption from National and Local Taxes**– Except for real property taxes on land owned by developers, no taxes, local and national, shall be imposed on business establishments operating within the Ecozone. In lieu thereof, five percent (5%) of the gross income earned by all businesses enterprises within the Ecozone shall be remitted as follows:
>
> a. Three percent (3%) to the National Government;
> b. Two percent (2%) which shall be directly remitted by the business establishment to the treasurer's office of the municipality or city where the enterprise is located."

In the case of *Commissioner of Internal Revenue v. Nidec Copal Philippines Corporation dated October 1, 2007,* the Court of Tax Appeals (CTA) *en banc* ruled that the Documentary Stamp Tax (DST), which is a national tax, cannot be imposed on PEZA-registered enterprise availing of the 5% preferential tax rate. The CTA held that:

> *"The Supreme Court has confirmed the rule under R.A. 7916 that the 5 % preferential tax on GIE under RA. 7916 is in lieu of all taxes. No other national or local tax may be imposed on a PEZA-registered enterprise availing of this particular fiscal incentive, not even an indirect tax like VAT. When R.A. No. 8748 was enacted to amend R.A. No. 7916, the same prohibition applied, except for real property taxes that presently are imposed on land owned by developers. This similar and repeated prohibition is an explicit ratification of the law's intent in not imposing local or national taxes on business enterprises within the Ecozone. Since the law does not exclude the DST from prohibition, it is deemed included. Exceptio firmat regulam in casibus non exceptis. An exception confirms the rule in cases not excepted; that is, a thing not being excepted must be regarded as coming within the purview of the general rule."*

Based on the foregoing, no local and national taxes, including the DST under Section 180 of the National Internal Revenue Code (NIRC) of 1997 as amended, may be imposed on PEZA-registered enterprises availing of the 5% preferential tax rate on the income earned from their registered activities.

In case of a sale of real property located within an ecozone by a PEZA-registered Ecozone Developer/Operator enjoying the 5% final tax on GIE to another PEZA-registered enterprise likewise enjoying the 5% final tax incentive, both parties are exempt from DST imposed under Section 196 of the NIRC, as amended by Republic Act No. 10963 otherwise known as Tax Reform for Acceleration and Inclusion (TRAIN) Law, provided that such sale or disposition is directly pursuant to their registered activities.

Accordingly, the following documents shall be required from all parties to support the tax exemption of the transaction for purposes of issuing the eCAR:

1. Certified true copy of the latest PEZA Certificate of Registration of the PEZA Ecozone Developer/Operator and the parties to the transaction;
2. Certified true copy of PEZA Registration Agreement; and
3. Certified true copy of the following PEZA certificate of available tax incentives as of the time of the transaction:
   a. PEZA Form No. 00-00-01 - Certification on Entitlement of 5% Gross Income Tax; and
   b. PEZA Form No. 00-03-01- Certification on Available Incentives.

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

CAESAR R. DULAY
Commissioner of Internal Revenue

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