



**SUBJECT : AMENDING RULE 2, SECTIONS 4, 5 AND 8; RULE 3, SECTION 3; RULE 17, SECTION 2, AND RULE 18 SECTION 5, AND ADDING A NEW RULE 18 SECTION 6 OF THE IMPLEMENTING RULES AND REGULATIONS OF TITLE XIII OF REPUBLIC ACT NO. 8424 OTHERWISE KNOWN AS THE "NATIONAL INTERNAL REVENUE CODE OF 1997", AS AMENDED BY REPUBLIC ACT NO. 11534 OR THE "CORPORATE RECOVERY AND TAX INCENTIVES FOR ENTERPRISES (CREATE) ACT"**

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**SECTION 1. Scope.** Pursuant to Section 21 of Republic Act No. 11534, entitled "AN ACT REFORMING THE CORPORATE INCOME TAX AND INCENTIVES SYSTEM, AMENDING FOR THE PURPOSE SECTIONS 20, 22, 25, 27, 28, 29, 34, 40, 57, 109, 116, 204 AND 290 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND CREATING THEREIN NEW TITLE XIII, AND FOR OTHER PURPOSES," the Secretary of Finance and the Secretary of Trade and Industry hereby promulgate these amendments to the CREATE Implementing Rules and Regulations (IRR).

**SECTION 2.** Rule 2, Sections 4, 5 and 8 of the CREATE IRR is hereby amended to read as follows:

**RULE 2. Tax and Duty Incentives**

**SECTION. 4. *Customs Duty Exemption on Importation of Capital Equipment, Raw Materials, Spare Parts, or Accessories.*** — REGISTERED EXPORT AND DOMESTIC MARKET ENTERPRISES SHALL ENJOY EXEMPTION FROM CUSTOMS DUTIES ON THEIR importation of capital equipment, raw materials, spare parts, and accessories FOR THEIR REGISTERED PROJECT OR ACTIVITY FOR A MAXIMUM PERIOD OF SEVENTEEN (17) YEARS AND TWELVE (12) YEARS FROM THE DATE OF REGISTRATION, RESPECTIVELY, UNLESS OTHERWISE EXTENDED UNDER THE SIPP; *provided*, that the following conditions are complied with:

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**SECTION. 5. Value-added Tax (VAT) zero-rating and exemption.** — The VAT exemption on importation and VAT zero-rating on local purchases shall only apply to goods and services directly and exclusively used in the registered project or activity of a registered export enterprise, FOR A MAXIMUM PERIOD OF SEVENTEEN (17) YEARS FROM THE DATE OF REGISTRATION, UNLESS OTHERWISE EXTENDED UNDER THE SIPP.

The direct and exclusive use for the registered project or activity refers to raw materials, inventories, supplies, equipment, goods, **PACKAGING MATERIALS,**

SERVICES, INCLUDING PROVISION OF BASIC INFRASTRUCTURE, UTILITIES, AND MAINTENANCE, REPAIR AND OVERHAUL OF EQUIPMENT, and other expenditures DIRECTLY ATTRIBUTABLE TO the registered project or activity without which the registered project or activity cannot be carried out; **PROVIDED, THAT THE VAT ZERO-RATING ON LOCAL PURCHASES SHALL BE GRANTED UPON THE ENDORSEMENT OF THE CONCERNED IPA, IN ADDITION TO THE DOCUMENTARY REQUIREMENTS OF THE BIR.**

**SECTION 8. *Taxation after the expiration of the period of availment of incentives.*** – All registered business enterprises shall pay all applicable taxes at the regular rates under the Code and other laws after the expiration of the period of incentives of their registered project or activity, **UNLESS OTHERWISE PROVIDED IN THESE RULES.**

**SECTION 3.** Rule 3, Section 3 of the CREATE IRR is hereby amended to read as follows:

**SECTION 3. *Qualified expansion, entirely new project, or existing registered projects or activities.***

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Qualified expansion projects or activities defined under Rule 1, Section 4(U), may be granted three (3) YEARS ITH FOLLOWED BY THE ENHANCED DEDUCTIONS OR SCIT, AS APPLICABLE. THE EXPANSION PROJECT OR ACTIVITY MAY ALSO BE ENTITLED TO DUTY EXEMPTION, VAT EXEMPTION ON IMPORTATION AND VAT ZERO RATING ON LOCAL PURCHASES UNDER RULE 2, SECTIONS 4 AND 5, RESPECTIVELY; *Provided, that* the application for tax incentives for a qualified expansion project or activity shall be approved by the FIRB or concerned IPA, as the case may be, based on the amount of investment capital of the expansion project or activity under Rule 5, Section 1.

**SECTION 4.** Rule 17, Section 2 of the CREATE IRR is hereby amended to read as follows:

**RULE 17. Transitory and Miscellaneous Provisions**

**SECTION 2. *Entitlement to duty exemption on importation of capital equipment, raw materials, spare parts or accessories.*** — Existing RBEs with valid Certificate of Authority to Import (CAI) or Admission Entry whose capital equipment, raw materials, spare parts or accessories were ordered, as reflected in the date of the purchase order or on the date of the opening of the corresponding letters of credit; or loaded, as reflected in the bill of lading date; or are still in transit during the effectivity of Executive Order 85, Series of 2019, shall qualify for the duty exemption until the expiration of the CAI/Admission Entry.

**SECTION 5.** Rule 18, Section 5 of the CREATE IRR is hereby amended and Section 6 is inserted to read as follows:



**RULE 18. Investments prior to the effectivity of the Act**

**SECTION 5. *Non-income related tax incentives.*** — All registered EXPORT AND DOMESTIC MARKET enterprises that will continue to avail of their existing tax incentives subject to Sections 1, 2 and 3 of this Rule, may continue to enjoy the duty exemption, VAT EXEMPTION ON IMPORTATION, AND VAT ZERO-RATING ON LOCAL PURCHASES AS PROVIDED IN THEIR RESPECTIVE IPA REGISTRATIONS; *Provided*, that the DUTY EXEMPTION, VAT-exemption on importation, and VAT zero-rating on local purchases shall only apply to goods and services directly ATTRIBUTABLE TO and exclusively used in the registered project or activity OF SAID REGISTERED export enterprises LOCATED INSIDE THE ECOZONES AND FREEPORTS UNTIL THE EXPIRATION OF THE TRANSITORY PERIOD; *PROVIDED, FURTHER, THAT IMPORTATION OF CAPITAL EQUIPMENT, SPARE PARTS, AND ACCESSORIES BY EXISTING EXPORT ENTERPRISES AND DOMESTIC MARKET ENTERPRISES REGISTERED WITH THE BOI PRIOR TO THE EFFECTIVITY OF THE ACT SHALL CONTINUE TO BE SUBJECT TO DUTY EXEMPTION FOR A PERIOD OF FIVE (5) YEARS FROM DATE OF REGISTRATION.*


**SECTION 6. *TRANSITORY RULES FOR OFFSHORE GAMING LICENSEES AND ACCREDITED SERVICE PROVIDERS.*** - NOTWITHSTANDING THE PROVISIONS OF REPUBLIC ACT NO. 11590, AN OFFSHORE GAMING LICENSEE OR AN ACCREDITED SERVICE PROVIDER DEFINED UNDER SECTIONS 22 (II) AND 27 (G) OF THE CODE, AS AMENDED, DULY REGISTERED WITH, AND ENJOYING INCENTIVES GRANTED BY AN IPA UNDER ITS CHARTER PRIOR TO THE EFFECTIVITY OF THIS ACT, SHALL CONTINUE TO ENJOY SAID INCENTIVES UNTIL THE EXPIRATION OF THE TRANSITORY PERIOD IN SECTION 311 OF THE CODE, AS IMPLEMENTED BY SECTIONS 1, 2, AND 3 OF THIS RULE, OR THE EXPIRY OF THE LICENSE OR ACCREDITATION OF THE REGISTERED ENTERPRISE, WHICHEVER COMES EARLIER; PROVIDED THAT, SAID OFFSHORE GAMING LICENSEES AND ACCREDITED SERVICE PROVIDERS SHALL THEREAFTER BE SUBJECT TO THE APPLICABLE TAXES UNDER REPUBLIC ACT NO. 11590 AND ITS IMPLEMENTING RULES AND REGULATIONS.

**SECTION 6. *Repealing clause.*** All existing rules and regulations or parts thereof which are inconsistent with the provisions of this IRR are hereby amended accordingly.

**SECTION 7. *Effectivity.*** These Rules shall take effect immediately upon publication in a newspaper of general circulation.

  
CARLOS G. DOMINGUEZ  
Secretary of Finance



  
RAMON M. LOPEZ  
Secretary of Trade and Industry  
