



## Annex "A"

Provided below are the old provisions under Question Nos. 10, 17, 31 and 33 in RMC No. 24-2022 and the amended provisions per RMC No. 49-2022 (underscoring supplied to emphasize amendments):

RMC No. 24-2022	Amended provision under RMC No. 49-2022
<p><b>Question No. 10 - RR No. 21-2021 was issued a few months after the issuance of RR No. 15-2021, which deferred the implementation of RR No. 9-2021. There is a possibility that affected taxpayers may have declared their sales to registered export enterprises as VAT zero-rated and domestic market enterprises (DMEs) within Ecozones and Freeport zones for the period July 1, 2021 up to the effectivity of RR No. 21-2021 on December 10, 2021. What happens if these are not qualified for VAT zero-rating based on the provisions of the CREATE Act?</b></p>	<p><b>Question No. 10 - RR No. 21-2021 was issued a few months after the issuance of RR No. 15-2021, which deferred the implementation of RR No. 9-2021. There is a possibility that the sales transactions covered in RR No. 9-2021 have been declared by the sellers as VAT zero-rated for the period July 1, 2021 up to December 9, 2021 or a day prior to the effectivity of RR No. 21-2021 on December 10, 2021. What happens if these are not qualified for VAT zero-rating based on the provisions of the CREATE Act?</b></p> <p><b>PwC Note:</b> Question 10 was previously limited to sales to registered export enterprises and DMEs within Ecozones and Freeport zones. RMC No. 49-2022 was revised to include other sales covered by RR No. 9-2021.</p>
<p>Transactions that have been considered by the seller as VAT zero-rated shall still remain as VAT zero-rated for the period of 1 July 2021 to 9 December 2021. Affected taxpayers who have already declared their transactions as subject to VAT may avail of the following options:</p> <ol style="list-style-type: none"> <li>The seller may retain the transaction as subject to VAT and the buyer may utilize the passed-on VAT as input tax credited against the output tax; or, if the purchaser is engaged in zero-rated activities, the input VAT may be recovered through VAT refund. If the purchaser is not a VAT-registered taxpayer, the VAT paid shall be claimed as part of the cost of sales or expenses.</li> <li>The seller may revert the transactions from VATable to zero-rated by amending the VAT return after reimbursing/ returning the VAT paid by the buyer that is a registered export enterprise, provided that no Letter of Authority has been issued yet.</li> </ol>	
	<p>Additional requirements if the seller will choose to revert the transactions from VATable to zero-rated:</p> <p><u>The seller shall retrieve the VAT Sales Invoice (SI) or Official Receipts (OR) originally issued to the registered enterprise buyer for cancellation and replacement with a zero-rated SI/OR. The seller shall prepare a list of VAT SI/OR canceled, together with the corresponding SI/OR replacement subject to validation of the BIR.</u></p> <p><b>PwC Note:</b></p>



	<p>[1] This additional requirement is not specifically cited in the old provision of Q/A No. 10; This is provided in Q/A Nos. 8 and 9 of RMC No. 24-2022.</p> <p>[2] The Answer to Question No. 7 in RMC No. 24-2022 is no longer applicable because it refers to sales from 27 June 2021 to 30 June 2021.</p>
<p><b>Question No. 17 - What is the treatment on the sales by registered non-export enterprises or DMEs located in Ecozones and Freeport Zones to registered export enterprises and non-RBEs?</b></p>	<p><b>Question No. 17 - What is the treatment on the sales by registered <u>non-export locators</u> or domestic market enterprises (DMEs) located in Ecozones and Freeport Zones?</b></p>
<p>Domestic marked enterprises (DMEs) under 5% GIT or SCIT regime and registered as VAT-exempt entities shall treat their revenues as VAT-exempt, and passed-on VAT shall form part of its costs and expenses.</p> <p><b>PwC Note:</b> This is modified in RMC 49-2022</p>	<p><u>Registered non-export locators</u> or DMEs <u>located inside Ecozones and Freeport Zones</u> are treated as follows:</p> <ol style="list-style-type: none"> <li>a. <u>If registered prior to CREATE –</u> <ol style="list-style-type: none"> <li>1. <u>If under 5% Gross Income Tax regime, sales of the non-export locators, whether inside the Ecozones or Freeport Zones or from the customs territory, are VAT-exempt only to the extent of the registered activity, and passed-on VAT shall form part of costs and expenses.</u></li> <li>2. <u>If under income tax holiday, sales to registered export enterprises are subject to VAT at zero-rate, provided the goods and services are directly and exclusively used in the latter's registered project or activity, while sales to non-export locators or DMEs within Ecozones and Freeport Zones, as well as sales to enterprises from the customs territory, are subject to VAT.</u></li> </ol> </li> <li>b. <u>If registered during the effectivity of CREATE –</u> <ol style="list-style-type: none"> <li>1. <u>Sales to registered export enterprises are subject to VAT at zero-rate, provided the goods and services are directly and exclusively used in the latter's registered project or activity.</u></li> <li>2. <u>Sales to DMEs within Ecozones and Freeport Zones, as well as sales to enterprises from the customs</u></li> </ol> </li> </ol>



	territory, are subject to VAT.
<b>Question No. 31 - What is required from the existing registered export enterprises that have already completed their ITH and already under the 5% GIT or SCIT regime but remained as a VAT-registered entity?</b>	
<p>Registered export enterprises that enjoy an income tax holiday (ITH) must change their tax status from VAT to non-VAT within 2 months from the expiration of its ITH.</p> <p>Registered export enterprises subject to a 5% GIT or SCIT regime but are still VAT-registered must change their registration status from VAT to non-VAT within 2 months from the effectivity of RMC 24-2022.</p>	<p>Registered export enterprises <u>whose sales are generated only from the registered activity and shifted from income tax holiday (ITH) to 5% gross income tax (GIT) or special corporate income tax (SCIT) regime shall</u>, within 2 months from the expiration of the ITH, change their registration status from VAT-registered to non-VAT.</p> <p>Registered export enterprises enjoying the 5% GIT regime <u>but still VAT-registered at the time the CREATE Act took effect</u> shall change their registration status from VAT to non-VAT within 2 months from the effectivity of this Circular.</p> <p><u>However, a registered export enterprise has other activities subject to VAT, it shall remain as a VAT taxpayer and shall report the sales in VAT returns as zero-rated or VAT-exempt.</u></p>
<b>Question No. 33 - Is prior approval from the BIR needed to be secured by the local suppliers of goods/services of registered export enterprises in order for their sales to be accorded VAT zero-rating, as provided for under the CREATE?</b>	
<p>The suppliers of goods and services to register export enterprises must secure the prior approval of the BIR to avail of the VAT zero-rate incentive. Absence of prior approval may result in the disallowance of the VAT zero-rated sale.</p>	
	<p><b>Additional provision:</b></p> <p><u>For sales transactions that are qualified for VAT zero-rating but failed to secure approval from the BIR, prior application may not be required until 9 March 2022 (effectivity of RMC 24-2022) or the effectivity of RMC No. 49-2022, subject to the submission of a Certificate of Registration or VAT Certification issued by the IPA, sworn affidavit with a statement that the goods or services are directly and exclusively used for production or services to be exported or for utilities and other similar costs, and other documents that establish entitlement to VAT zero-rating.</u></p>