

# TAX ADVISORY 2022-81

Dear value clients,

The Bureau of Internal Revenue (BIR) recently issued Revenue Regulations Nos. 6-2022, 07-2022, 08-2022, and 09-2022 on June 30, 2022. Below is the discussion of highlights of the mentioned regulations, and we highly advice to read the whole regulation.

## LESS COST, REMOVAL OF ATP EXPIRATION!

*(RR No. 6-2022)*

In compliance with the Republic Act No. 11032 (aka “Ease of Doing Business and Efficient Government Service Delivery Act of 2018”), the BIR had issued this regulation which effectively removes the 5-year validity period on Authority to Print (ATP) after some taxpayer the additional costs they incurred in printing new sets of manual receipts/invoices after the lapse of the said period even there are still unused receipts/invoices. Moreover, the coverage of the regulation also includes the following:

1. Registration of Computerized Accounting System (CAS)/Component of CAS, and
2. Permit to Use (PTU) Cash Register Machines (CRMS) and Point of Sales (POS) machines.

The said permits shall be valid until revoked by the Bureau due to certain circumstances such as, but not limited to, tampering of sales data, major modification in the system without prior approval, or any violation on the policies and procedures of registration and other related revenue issuances.

## TAX INCENTIVES FOR RENEWABLE ENERGY!

*(RR No. 07-2022 and R.A. No. 9513)*

The Republic Act No. 9513 (aka “Renewable Energy Act of 2008”) have long been passed into law during the past administration, however, only now that the BIR had release a guideline on the tax incentives and other tax matters that was enshrined in the said law. Renewable Energy (RE) developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment may now use this guideline from the BIR to secure the certifications/accreditations required before any incentive provided for in the Act may be availed of.

However, existing and new RE developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall register with the Department of Energy (DOE), through the Renewable Energy Management Bureau (REMB).

The following certifications shall be secured and submitted to the BIR:

a. **DOE Certificate of Registration** – issued to an RE developer holding a valid RE Service/Operating Contract.

b. **DOE Certificate of Accreditation** – issued to RE manufacturers, fabricators, and suppliers of locally-produced RE equipment, upon submission of necessary requirements as determined by the DOE, in coordination with the Department of Trade and Industry (DTI).



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- c. **Certificate of Endorsement from the DOE** – issued to RE Developers prior to the first year of availment of the 10% Corporate Income Tax rate incentive.
- d. **Certificate of Income Tax Holiday (ITH) Entitlement (CE)** – issued by the BOI is a required attachment to the current annual Income Tax Return (ITR) to be filed with the BIR. The ITH shall only be applied to the registered activity indicated in the CE. It should be noted that failure to attach the CE to the ITR may result to the forfeiture of the ITH incentive for the covered taxable year.

Registration with the Board of Investments (BOI) is required for RE developers, manufacturers, fabricators, and suppliers of locally-produced equipment to qualify for incentives under the law.

Below are the fiscal incentives for RE projects and activities for both power and non-power applications:

- a) **Income Tax Holiday (ITH)** – The duly-registered RE developer shall be exempt from Income Taxes levied by the National Government for a certain period.
- b) **Net Operating Loss Carry-Over (NOLCO)** – The NOLCO of the RE developer during the first three (3) years from the start of commercial operation shall be carried over as a deduction from gross income for the next seven (7) consecutive taxable years immediately following the year of such loss, subject to the conditions set forth in the regulations.
- c) **Corporate Tax Rate** – After availment of the ITH, all registered RE developers shall pay a Corporate Tax of ten percent (10%) on their net taxable income as defined in the National Internal Revenue Code (NIRC) of 1997, as amended: Provided, That the RE developers shall pass on the savings to the end-users in the form of lower power rates.
- d) **Accelerated Depreciation** – If an RE project fails to receive an ITH before full operation, the RE developer may apply for accelerated depreciation in its tax books and be taxed on the basis of the same. If an RE developer applies for accelerated depreciation, the project or its expansions shall no longer be eligible to avail of the ITH. The RE developer shall inform the BIR, through the Revenue District Office (RDO) where it is registered, that it is availing of the accelerated depreciation instead of the ITH.
- e) **Zero Percent Value-Added Tax Rate** – The sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be subject to zero percent (0%) Value-Added Tax (VAT) pursuant to the NIRC of 1997, as amended; Provided, that ancillary services generated through renewable sources of energy shall also be subject to zero percent (0%) VAT.
- f) **Tax Exemption of Carbon Credits** – All proceeds from the sale of carbon emission credits shall be exempt from any and all taxes.

For registered RE Developer of Hybrid and Cogeneration systems, the tax exemptions and/or incentives provided under Section 4 of the regulation shall be availed of utilizing both RE sources and conventional energy but only in proportion to and to the extent of the RE component. The tax exemptions and incentives for hybrid and cogeneration systems shall apply only to the equipment, machinery, and/or devices utilizing RE resources.

For all manufacturers, fabricators, and suppliers of locally-produced RE equipment and components duly recognized and accredited by the DOE and upon registration with the BOI, they shall be entitled to the privileges set forth below on their sale of RE equipment to RE developers:

- a) **Value-Added Tax (VAT)-free Importation of Components, Parts and Materials**
- b) **Income Tax Holiday and Exemption**
- c) **Zero-Rated Value-Added Tax Transaction**

All individuals and entities engaged in the plantation of crops and trees used as Biomass Resources shall be exempt from payment of VAT on all types of agricultural inputs, equipment, and machinery within ten (10) years from the effectivity of the Act, subject to the certification by the DOE and the conditions set forth in Section 7 of the regulation.

Purchasers of RE equipment for residential, industrial or community use shall be entitled to a rebate equivalent to the VAT passed on to the said purchasers. The rebate shall only be available to purchasers who are not VAT-registered and shall be in the form of a tax credit from the Income Tax liability of the purchasers during the year of purchase. Any unutilized rebate or tax credit shall be forfeited.

The also regulation prohibits double availment of incentives. Doing so will disqualify the registrants of its availment of other tax and non-tax incentives under the Tax Code, as amended.

Finally, entities covered by this regulation are required to comply with the filing and reportorial requirements under CREATE Act. Non-compliance will be subjected to penalties under the law.

## **TRAIN LAW: ELECTRONIC INVOICING/RECEIPTING SYSTEM (EIS) IMPLEMENTED**

*(RR No. 08-2022)*

Since the implementation of the TRAIN Law last 2018, certain taxpayers are looking forward as to how the issuance of electronic issuance of receipt and invoice will be done. With the newly issued regulation, it was specified that only the following taxpayers are mandated to adhere to amendment of the Tax Code, they are as follows:

- 1) Taxpayers engaged in the export of goods and services;
- 2) Taxpayers engaged in electronic commerce (e-commerce); and
- 3) Taxpayers under the Large Taxpayers Service (LTS).

Accordingly, we highlight of the policies and guidelines:

1. All covered taxpayers required to issue e-Receipts/e-Invoices and transmit sales data electronically under Section 2 of these Regulations are required to develop a Sales Data Transmission System based on the Standard Application Programming Interface (API) Guidelines.
2. Prior to the actual transmission of sales data to the Electronic Invoicing/Receipting System (EIS), enrollment of taxpayers shall be necessary for security purposes.
3. The developed Sales Data Transmission System shall be certified by BIR through the EIS. Taxpayers are required to submit applications for the EIS Certification or "EIS CERT" subject to online verification if compliant with the SIR requirements. Upon approval of the application, an "EIS CERT" shall be issued to the taxpayer.
4. The taxpayer shall also submit an application for the issuance of Permit to Transmit (also known as "PTT") in order to allow the transmission of sales data to the EIS.
5. Taxpayers shall apply for EIS CERT and PTT regardless of the role of or arrangement with the software provider.
6. Sales reporting shall be done immediately for transactions on the day following the issuance of the FTI.
7. Transmission of sales data shall be done real time or near real time provided that it should be done within three (3) calendar days from the date of the transaction. Scanned copy nor image of the e-Receipts/Invoices are not required to be transmitted to the EIS.
8. The encrypted sales data to be transmitted to EIS shall be in Java Script Object
9. Only authorized taxpayers are allowed to access the EIS.
10. A corresponding penalty shall be imposed for the delayed or late or no transmission of sales data to EIS.



11. Taxpayers who are not mandated to issue e-Receipts/e-Invoices and/or not mandated to transmit sales data to EIS may continue to use manual receipts/invoices or issue CAS/POS-generated receipts/invoices based on existing revenue issuances. However, taxpayers who will opt to issue e-Receipts/e-Invoices and transmit sales data to EIS may comply with the provisions of these Regulations.
12. Taxpayers using the EIS shall not be required to submit Summary List of Sales (SLS), however, Summary List of Purchases and Importations shall still be required to be submitted.

#### **TRAIN LAW: ADMISSIBILITY OF SALES DOCUMENTS IN ELECTRONIC FORMAT**

*(RR No. 09-2022)*

To adapt to the needs of the digital economy the Philippine Government passed the Republic Act No. 8792 (aka “Electronic Commerce Act of 2000”) last June 2000, and the Supreme Court approved the Rules on Electronic Evidence allowing the admission of an electronic document or electronic data message as evidences. From this, TRAIN law included a provision which mandates certain taxpayer to adhere to electronic issuance of receipt/invoices, however, despite this that is covered by such provision in the Tax Code still submit hard copies of invoices and receipts for their compliance. Thus, the BIR had developed the Electronic Invoicing/Receipting and Sales Reporting system (EIS) that is capable of storing and processing sales data required to be transmitted by covered taxpayers using their Sales Data Transmission System.

Below are the highlights of the regulation:

1. At the time of the audit or investigation or verification of the taxpayer, the sales and purchases data will be generated and verified through the EIS, in lieu of hard copies, are admissible, provided, these comply with the information/data requirements under existing revenue issuances and the under Section 113 of the same Tax Code.
2. Taxpayers duly authorized to use the EIS, whether through the web-based format or through Application Programming Interface (API) transmission of sales data, shall not be required to submit printed copies of the invoices or receipts issued for their sales.
3. Printed Invoices/Receipts for purchases from suppliers using the web-based issuance in the EIS, or through Sales Data Transmission System, will no longer be required to be submitted. However, only purchases data that are validated in the EIS shall be allowed for purposes of claiming input VAT under, or for claiming deductible expenses for purposes of income tax. Purchases not reported in the EIS by the supplier shall be construed as unreported sales and shall be subject to further investigation.
4. The original form or digital copies, whichever is applicable, must be retained in accordance with Sections 235 and 237 of the Tax Code, as amended, in order for the taxpayer to provide the same upon demand for verification and validation of the sales and purchases data generated through the EIS or submitted electronic forms of invoices or receipts
5. Taxpayers may be required to present or submit hard copies of the receipts or invoices or allowed access to the computerized systems subject to the approval of the Commissioner of Internal Revenue or his authorized representative under certain circumstances
6. Revenue officers are not precluded from accessing the respective CAS or POS/CRM machines of the taxpayer under the EIS to validate whether the sales data transmitted to the EIS matches the sales recorded in their electronic systems as required under RR No. 9-2009.
7. Refusal of the taxpayer to allow the revenue officers assigned to access the CAS pursuant to Section 7 of RR No. 7-2009 shall give authority to the revenue officers to employ alternative means in the verification of the records of the taxpayer or may result in possible disallowances or assessments. There will also be other penalties that may be imposed under existing relevant regulations.
8. Sales and purchases not covered by the regulations shall be in compliance with the existing policies and procedures for the manual verification of sales and purchases.

*Please be guided accordingly.*

Sincerely,  
**Tax Advisory Services**