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Monetization of VAT tax credits

THE value-added tax (VAT) is a form of sales tax imposed and collected by the government on the sale, barter, exchange or lease of goods or services, including the importation of goods into the Philippines. It is also a form of an indirect tax, which means that although the impact of tax is imposed upon the seller or transferor, the burden of the tax or the incidence of tax is shifted to the buyer.

There are instances, however, when a seller may not shift the burden to the buyer. In VAT-exempt transactions, no VAT is passed on by the seller to the buyer. Thus, there is no output VAT against which the VAT paid on purchases, if any, may be credited.

Likewise, in a VAT zero-rated transaction, the seller cannot shift the VAT to its buyer. Like in a VAT-exempt transaction, there is no VAT on sales or output tax against which the VAT paid on purchases or input taxes may be applied. A seller may have paid for the input VAT on the goods he plans to sell and on related transactions, but since no VAT is collected from the buyer, he could not recover the VAT incurred on purchases. In effect, the burden of the VAT paid on purchases ends with the seller.

But unlike in a VAT-exempt transaction, the seller in a VAT zero-rated transaction can recover the related unused input taxes in the form of a tax refund. In a refund, the taxpayer may either opt for a cash refund or the issuance of tax-credit certificate (TCC). In the case of the latter, the same could be used by the taxpayer to pay his other tax liabilities. Previous administrations had preferred the issuance of a TCC over a cash refund because there is no actual cash outlay on the part of the government. Nonetheless, there was no much inconvenience on the part of the taxpayers because they could actually transfer the TCC to other interested taxpayers, in case there are no other tax liabilities against which the TCC could be applied.

Recently though, the Department of Finance issued revenue regulations prohibiting the transfer or assignment of TCC. This became a problem to many holders of TCC and prospective applicants for TCC. This effectively restrained the enjoyment of their properties.

The issuance of Executive Order (EO) 68 by President Aquino is a partial relief from this issue. EO 68, also known as the Monetization Program of Outstanding VAT TCC, allows qualified VAT-registered taxpayers to convert their outstanding VAT TCC into cash. This covers all VAT TCC issued pursuant to Section 112 (A) of the Tax Code, as amended, and outstanding VAT component of drawback TCC issued under Section 106 (e) of the TCCP, as amended.

Basically, under this program a qualified VAT-registered taxpayer may opt to collect in advance from a trustee bank the discounted cash value of the TCC or collect the full cash value of the TCC upon a certain maturity date, to be determined by the Bureau of Internal Revenue or the Bureau of Customs (BOC) pursuant to implementing rules and regulations to be issued. This new program will be implemented in the next five years or beginning this year until 2016. A budget will be allocated by Congress to fund the program.

The finance department of the government shall spearhead the program, specifically the BIR and the BOC. Subject to existing law, rules and regulations, the Bureau Internal Revenue and the Bureau of Customs shall verify and confirm all the outstanding VAT TCC.

EO 68 also specifies that beginning 2012, the BIR and the BOC shall issue cash refund for VAT refund, instead of TCC, unless specifically applied for by the taxpayer.

This is a welcome development for some taxpayers. We just hope that the rules and regulations to be issued to implement the executive order should afford the fairness and convenience taxpayers are longing for, consistent with the objective of the EO to promote conducive business environment and to raise the business creditability of the government both locally and globally.

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