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1. Is the stock transaction tax an income tax? If yes, will the exclusion from gross income under Section 32(B)(7)(a) of the Republic Act No. 8424, as amended, otherwise known as the National Internal Revenue Code, as amended, apply to the stock transaction tax?

No. The stock transaction tax is not an income tax but a percentage tax. The exclusion from gross income under Section 32(B)(7)(a) of the NIRC applies only to income tax under Title II of the National Internal Revenue Code, as amended (*NIRC*). Its application cannot be extended to Title V on Other Percentage Taxes. In *IFC Capitalization (Equity) Fund, L.P. v. Commissioner of Internal Revenue* (G.R. No. 256973, November 15, 2021), the Supreme Court highlighted the following differences between the stock transaction tax and income tax: (1) stock transaction tax is found under Title V of the NIRC on Other Percentage Taxes, while income tax is found under Title II; and (2) a percentage tax is a national tax measured by a certain percentage of the gross selling price or gross value in money of goods sold, bartered or imported; or of the gross receipts or earnings derived by any person engaged in the sale of services, while an income tax is a national tax imposed on the net or the gross income realized in a taxable year. Thus, Section 32(B)(7)(a) on exclusions from gross income cannot be extended to Title V, which covers the stock transaction tax. Furthermore, the Supreme Court ruled that tax refunds or credits — just like tax exemptions — are strictly construed against taxpayers.

SyCipLaw TIP 1:

The sale or other disposition of shares of stock listed and traded through the local stock exchange other than the sale by a dealer in securities is subject to the stock transaction tax under Section 127(A) of the NIRC. The sellers or transferors who may be covered by Section 32(B)(7)(a) of the NIRC on exclusions from gross income (e.g., foreign governments, financing institutions owned by foreign governments, etc.) cannot seek refuge under the said provision to claim exemption from the payment of the said tax, since the stock transaction tax is not an income tax covered by the exclusion under Section 32(B)(7)(a).

2. May a taxpayer await the decision of the Commissioner of Internal Revenue (CIR) on an administrative appeal of a denial of protest before filing a petition for review despite the issuance of the Preliminary Collection Letter, the Final Notice Before Seizure and the Warrant of Distraint and/or Levy?

Yes. In *Light Rail Transit Authority v. Bureau of Internal Revenue* (G.R. No. 231238, June 20, 2022), the Supreme Court held that in cases of inaction by the CIR on appeals of denials of protest, the taxpayer has the "option" to await the CIR's decision on appeal before filing a petition for review before the Court Tax Appeals (*CTA*). The Supreme Court held that the petition for review can be filed notwithstanding the expiration of the 180-day period for the CIR to resolve protests of assessments.

In *Light Rail Transit Authority (LRTA)*, the Regional Director issued a final decision on disputed assessment (*FDDA*) denying LRTA's protest to the formal assessment notice. LRTA assailed the FDDA by filing an administrative appeal to the CIR. Pending resolution of the taxpayer's appeal of the FDDA, the Revenue District Officer issued a Preliminary Collection Letter, followed by a Final Notice Before Seizure and a Warrant of Distraint and/or Levy. After some time, the Regional Director, acting on the appeal of LRTA to the CIR declared the case final, executory, and demandable (*Denial of the Administrative Appeal*). LRTA received the Denial of Administrative Appeal on August 12, 2014 and filed a Petition for Review before the CTA on September 11, 2014, or within 30 days from the receipt of the denial. Acting upon the motion to dismiss filed by the CIR, the CTA dismissed the case for lack of jurisdiction.

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Under the circumstances, the Supreme Court finds that the CTA erred in dismissing the case for lack of jurisdiction. The Supreme Court held that if the denial of the protest is elevated to the CIR, the protest shall be decided by the CIR. The FDDA was timely elevated to the CIR; hence, it never became final, executory, and demandable. As shown by the taxpayer's replies to the Revenue District Officer when the latter issued the Preliminary Collection Letter and Final Notice Before Seizure, the taxpayer genuinely chose to await the CIR's final decision on its appeal. In both reply letters, the taxpayer said that "it will act on the matter as soon as we receive the CIR's decision on our appeal." The option was made in good faith, not as an afterthought or "legal maneuver" to claim that the assessment had not yet become final.

Furthermore, considering that the taxpayer awaited the decision of the CIR on its appeal, it is immaterial that it filed its Petition for Review beyond the 180-day period for the BIR to act on disputed assessments.

The Supreme Court said that contrary to the ruling of the Court of Tax Appeals En Banc, the Final Decision on Disputed Assessment cannot be considered as the decision appealable to the Court of Tax Appeals under Section 7(a)(1) of Republic Act No. 1125, as amended. This interpretation will render nugatory the remedy of appeal to the Office of the CIR of the denial of the protest issued by his or her duly authorized representative, a remedy which was properly and timely availed of by the taxpayer. Subsection 3.1.5 of Revenue Regulations No. 12-99 is clear that if the protest is elevated to the CIR, "the latter's decision shall not be considered final, executory and demandable, in which case, the protest shall be decided by the Commissioner." The FDDA was timely elevated to the CIR; hence, it never became final, executory, and demandable.

Neither can the 30-day period for filing a petition for review be reckoned from the taxpayer's receipt of any of the following issuances: the Preliminary Collection Letter, the Final Notice Before Seizure, the Warrant of Distraint and/or Levy. Like the Final Decision on Disputed Assessment, these were not final decisions on the appeal by the CIR. They remained tentative given the pendency of the taxpayer's appeal with the CIR. More importantly, all of these were issued on the premise that "delinquent taxes" exist, an incorrect premise in this case.

SyCipLaw TIP 2:

If a taxpayer administratively appeals the denial of its protest to the CIR, but receives a Warrant of Distraint or a Preliminary Collection Letter, the taxpayer may still await the final decision of the CIR on the disputed assessments before filing a petition for review with the Court of Tax Appeals.The taxpayer also has an option to file a petition for review without waiting for the decision of the CIR. In *Philippine Journalists, Inc. v. Commissioner of Internal Revenue (*G.R. No. 162852, December 16, 2004), the Supreme Court has ruled that the CTA has jurisdiction to determine if a warrant of distraint and levy issued is valid since it has jurisdiction over "other matters arising under the National Internal Revenue Code or other laws or part of law administered by the Bureau of Internal Revenue." If there is an attempt to serve a warrant of distraint or preliminary collection letter pending an administrative appeal, a taxpayer should inform the office that issued the warrant or letter that it has filed an administrative appeal and is awaiting the CIR's decision on such appeal.

3. Is the Court of Tax Appeals bound to accept the findings of an independent certified public accountant who recommended granting a claim for refund of input value-added tax?

No. In *Nippon Express Philippines Corporation v. Hon. Caesar R. Dulay* (CTA EB No. 2442 [CTA Case No. 9873], June 23, 2022), the CTA En Banc rejected the taxpayer's position that the CTA is bound to adopt the findings of the independent certified public accountant (*ICPA*). The CTA relied on Rule 13, Section 3 of the Revised Rules of the Court of Tax Appeals (*CTA Rules*), which provides that the findings and conclusions of the ICPA may be challenged by the parties and shall not be conclusive upon the CTA, which may, in whole or in part, adopt such findings and conclusions subject to verification.

In this case, the taxpayer filed a claim of refund of input value-added taxes (*VAT*) based on its zero-rated sales. The taxpayer presented an ICPA as one of its witnesses, who recommended that the tax refund should be granted to the taxpayer. The CTA En Banc, affirming the decision of the CTA Division, denied the taxpayer's claim and the recommendation of the ICPA. The CTA En Banc found that the refund recommended by the ICPA was based only on his validation of the sales invoices and/or official receipts pertaining to the taxpayer's VATable purchases and their corresponding input VAT. The taxpayer, however, failed to substantiate its VAT zero-rated sales with zero-rated official receipts issued to its clients. The CTA En Banc found that no sales invoices and official receipts pertaining to that taxpayer's zero-rated sales were obtained and subjected to validation by the ICPA.

SyCipLaw TIP 3:

Taxpayers should not simply rely on the testimony and findings of an ICPA to successfully claim a refund of input VAT based on zero-rated sales. Taxpayers must review the ICPA's findings and ensure that the documentary evidence supporting the claim for refund of input VAT, such as the official receipts pertaining to both its purchases and its zero-rated sales, are presented to the ICPA and adduced as evidence in court.

A motion for reconsideration of the decision is currently pending.

CTA decisions, while persuasive, do not become the law of the land, unlike decisions of the Supreme Court.

4. Is the importation of alkylate subject to excise taxes, even if alkylate is not expressly listed among the excisable articles in the NIRC?

Yes. In *Petron Corporation v. Commissioner of Internal Revenue* (CTA EB No. 2425 [CTA Case Nos. 9565, 9606, & 9645], June 21, 2022), the CTA En Banc rejected the taxpayer's claim for refund of excise taxes and ruled that the importation of alkylate is subject to excise taxes.

Section 148 of the NIRC enumerates the different kinds of manufactured oils and other fuels upon which excise taxes are imposed, and among these enumerated items are "naphtha, regular gasoline and other similar products of distillation." The CTA En Banc upheld the CTA Division in ruling that alkylate falls under the foregoing items because alkylate is a product of distillation similar to naphtha and regular gasoline. The taxpayer argued that alkylate is not a product of distillation, presenting an expert witness who testified that only the raw materials of alkylate, but not alkylate itself, are products of distillation. Agreeing with the CTA Division, the CTA En Banc rejected the taxpayer's argument, reasoning that the NIRC does not distinguish between primary or secondary products of distillation.

SyCipLaw TIP 4:

In tax refund cases, the burden of proof to establish entitlement to a refund is on the taxpayer. If a taxpayer disputes the taxes imposed by the Bureau of Internal Revenue (*BIR*) through a claim for refund, the taxpayer must prove that it falls clearly within the statutory exemption.

A motion for reconsideration of the decision is currently pending.

CTA decisions, while persuasive, do not become the law of the land, unlike decisions of the Supreme Court.

The taxpayer also argued that its request for refund is grounded on the absence of alkylate from the list of exercisable articles under Sections 148 (e) and (f) of the NIRC. Accordingly, the burden of evidence has shifted to the CIR to prove that alkylate is an excisable article. The CTA En Banc disagreed with the taxpayer, reiterating the established rule that in tax refund cases, the burden is on the taxpayer to prove that it is entitled to a refund. The CTA En Banc ruled that tax refunds partake the nature of a tax exemption, which is a derogation of the power of taxation of the state and is strictly construed against the person claiming the refund.

5. May a taxpayer refuse the service of an electronic Letter of Authority (eLOA) or question its validity if the eLOA is served upon the taxpayer beyond the 30-day period from the issuance of the eLOA?

No, the taxpayer may not refuse to receive the eLOA or question its validity even if the eLOA is served upon the taxpayer beyond the 30-day period from the issuance of the eLOA, except under certain conditions. Revenue Memorandum Circular (*RMC*) No. 82-2022 clarified that Revenue Audit Memorandum Order (*RAMO*) No. 1-2020 deleted the provision requiring that a Letter of Authority (*LOA*) be served or presented to a taxpayer within 30 days from the date of issue. Under the old rule, the LOA must be served to the taxpayer within 30 days from the date of issue. The CTA *En Banc* has previously ruled that a LOA that was served beyond the prescribed period no longer has any force and effect and any audit conducted under the authority of the said LOA is already unauthorized.

Under RAMO No. 1-2020, the Revenue Officer (*RO*) should present the LOA together with the checklist of requirements upon his first opportunity to have personal contact with the taxpayer.

RMC 82-2022 clarified that while RAMO No. 1-2020 does not explicitly provide the timeline for the service of an eLOA, it is still for the best interest of the government that the eLOA is served on the taxpayer immediately upon issuance thereof. According to RMC 82-2022, the deletion of the 30-day period to serve the eLOA does not serve as an excuse for the RO to delay its service nor for a taxpayer to refuse its service or to question its validity if the eLOA is served beyond the 30-day period.

Nonetheless, RMC 82-2022 expressly stated that what is crucial is that the entire audit process must be completed within a period of 180 days (for Revenue District Office cases) or 240 days (for Large Taxpayer cases) from the date of issuance of the eLOA. According to RMC 82-2022, an eLOA that remains unserved upon the effectivity of the RMC (on June 28, 2022) or has been served beyond the 30-day period from the date of its issuance will still be considered valid and enforceable, **provided that** the 180/240-day period to complete the audit process has not yet expired.

SyCipLaw TIP 5:

Taxpayers may not refuse the service of an eLOA or question its validity even if the same is served or presented more than 30 days from the date of its issuance. However, if the eLOA is served beyond the applicable 180/240 day-period to complete the audit process, the eLOA is no longer considered valid and enforceable. Accordingly, taxpayers should still check the date of issuance and service of the eLOA to determine whether the audit that will be conducted by the RO pursuant to such eLOA is still valid and enforceable.

6. Can taxpayers still use their printed and/or system generated receipts/invoices beyond the 5-year period from the date of the ATP or PTU?

Yes, taxpayers can still use their printed and/or system generated receipts/invoices even beyond the date of issuance of their Authority to Print (*ATP*) or Permit to Use (*PTU*), respectively. Revenue Regulation No. 6-2022 (*RR 6-2022*) removed the 5-year validity period of the PTUs and/or system generated receipts/invoices. Hence, all PTUs to be issued are valid unless revoked by the BIR on grounds such as (i) tampering; (ii) any major repair, upgrade, integration and modification/alteration without prior notification and approval by the BIR; or (iii) any violation/s on the policies and procedures for registration under RMO No. 10-2005, RMO No. 9-2021, and other related revenue issuances

The taxpayer may disregard the validity date and the phrase "**This invoice/receipt shall be valid for 5 years from the date of the [ATP/PTU]**" printed on unused manual principal and supplementary receipts/invoices and issued on all system-generated receipts/invoices and may still be issue such receipts/invoices until fully exhausted.

The phrase "**This invoice/receipt shall be valid for 5 years from the date of the [ATP/PTU]**" as previously required under the regulations and the phrase "**Valid Until**" will also no longer appear on manual or system-generated receipts/invoices. However, with respect to system-generated receipts/invoices, the system/software generating such receipts/invoices must be reconfigured to omit the said phrases.

SyCipLaw TIP 6:

The revenue regulation removed the 5-year validity period for receipts and invoices to promote ease of doing business and efficiency in government services. Taxpayers can thus continue using their "expired" receipts/invoices until fully exhausted. Please note that while the phrases indicating the validity period of receipts/invoices shall no longer appear on such receipts/invoices, taxpayers using system-generated receipts/invoices must reconfigure their manual principal and systems/software to omit the said phrases.

Moving forward, RR No. 6-2022 covers taxpayers who will apply for the following:

i. ATP Official Receipts, Sales Invoices and Other Commercial Invoices based on RMO No. 12-2013

ii. Registration of Computerized Accounting System (*CAS*)/Component of CAS based on RMC No. 10-2020, RMC No. 5-2021 and RMO No. 9-2021

iii. PTU Cash Register Machines (*CRM*) and Point-of-Sale (*POS*) machines based on RR No. 11-2004 and RMO No. 10-2005

7. Can Registered Business Enterprises (RBE) in the Information Technology – Business Process Management (IT-BPM) continue their Work-from-Home (WFH) arrangements without adversely affecting their fiscal incentives?

Yes. The FIRB issued Resolution No. 17-22 as a temporary measure and allowed RBEs in the IT-BPM sector registered with Investment Promotion Agencies (*IPA*) such as the Philippine Economic Zone Authority to continue implementing WFH arrangements without adversely affecting their fiscal incentives under the Corporate Recovery and Tax Incentives for Enterprises Act (*CREATE Act*) **from 1 April 2022 until 12 September 2022** provided that employees under WFH arrangement do not exceed 30% of their total workforce.

FIRB Resolution No. 17-22 further provides that the number of employees under a WFH arrangement must not exceed 30% of the total workforce of the RBE, while the remaining 70% of the total workforce must render work or service within the geographical boundaries of the ecozone or freeport zone being administered by the IPA where the project/activity is registered. The term "total workforce" refers to the total employees that are directly or indirectly engaged in the registered project or activity of the RBE and does not include third-party contractors rendering janitorial or security services and other similar services.

RBEs adopting a WFH arrangement exceeding the 30% threshold are not entitled to avail themselves of fiscal and non-fiscal incentives during their period of non-compliance.

SyCipLaw TIP 7:

RBEs should carefully monitor the 70-30 WFH ratio to continue availing themselves of their fiscal and non-fiscal incentives granted under law during the period provided under the FIRB Resolution. Since the FIRB adopted Resolution No. 17-22 as a temporary measure only, RBEs should be prepared to conduct their operations exclusively within the ecozone or freeport zone once the period expires to minimize disruptions to their operations.

8. Is there a prescribed format for the sworn declaration to be executed by RBEs to avail themselves of the VAT zero-rating on their local purchase of goods and services?

Yes. RMC No. 84-2022 provided the template for the sworn declaration to be executed by RBE.

SyCipLaw TIP 8:

RBEs must take careful consideration when issuing the sworn declaration given the possibility of a perjury charge for untruthful statements in the sworn declaration. It is not clear whether a finding from the BIR that the goods or services purchased are not directly or exclusively used in the RBE's registered project or activity will subject the declarant to any criminal charge for perjury. The affirmation appears to be tempered by the phrase that the statements made in the sworn declaration are based on the declarant's best knowledge and belief and may be raised as a defense by the declarant. A perjury charge will require proof beyond reasonable doubt that the false statement was made willfully and deliberately.

The sworn declaration is submitted pursuant to RMC 24-2022, which provides that prior to a transaction, the RBE must provide suppliers with a photocopy of the RBE's BIR – Certificate of Registration (BIR Form No. 2303), VAT certification issued by the concerned IPA and the sworn declaration to avail of the VAT zero-rate incentives.

In the sworn declaration, the RBE must provide a description of its registered project or activity and the goods or services purchased and expressly state that the goods or services purchased from its suppliers are indispensable to the RBE's registered project or activity without which the project or activity cannot be carried out. The RBE will also declare, under the penalty of perjury, that the attestations in the sworn declaration are true and correct to the best of its knowledge and belief.

9. Tax Incentives Under the Renewable Energy Act of 2008; An Overview

After more than ten years, the Department of Finance finally issued Revenue Regulations (*RR*) 7-2022 setting out the Policies and Guidelines for the Availment of Tax Incentives Under the Renewable Energy Act of 2008 (the *Renewable Energy Act*) Thereof.

A. Who are entitled to the tax incentives under the Renewable Energy Act?

The following taxpayers are entitled to tax incentives under the Renewable Energy Act and as further detailed under RR No. 7-2022:

a) Renewable Energy developers (*RE Developers*) or individuals or judicial entities created, registered, and/or authorized to operate in the Philippines in accordance with existing Philippine laws and engaged in the exploration, development and utilization of RE resources and actual operation of RE systems/facilities;
b) Manufacturers, fabricators, and suppliers of locally produced renewable energy (RE) equipment (RE Manufacturers); and
c) Purchasers of RE equipment.

B. How do RE Developers and RE Manufacturers avail themselves of these tax incentives?

Existing and new RE Developers and RE Manufacturers must:

a) Register with the Department of Energy (*DOE*) through the Renewable Energy Management Bureau (*REMB*)

They must secure following certifications and submit them to the BIR:

i. DOE Certificate of Registration. This is issued to RE Developers holding valid RE Service/Operating Contracts.
ii. DOE Certificate of Accreditation. This is issued to RE Manufacturers, upon submission of necessary requirements as determined by the DOE in coordination with the Department of Trade and Industry (*DTI*).

b) Secure a Certificate of Endorsement from the DOE
RE Developers must secure the certificate prior to the first year of availment of the 10% corporate income tax rate incentive, while RE Manufacturers who import components, parts, and materials necessary for the manufacture and/or fabrication of RE equipment must secure the certificate through the REMB, on a per importation basis.

c) Register with the Board of Investments (*BOI*)
Certificate of Income Tax Holiday (*ITH*) Entitlement (*CE*) issued by the BOI must be attached to the current annual income tax return (*ITR*) to be filed with the BIR. The ITH shall apply only to the registered activity indicated in the CE. Failure to attach the CE to the ITR may result in the forfeiture of the ITH incentive for the taxable year covered.

C. What fiscal incentives are available to RE Developers under the Renewable Energy Act?

a) ITH for seven (7) years
The seven years is reckoned as follows:

• For existing RE projects and new investment in RE resources, the seven-year ITH shall commence from the start of commercial operations, which is when the RE project is (1) issued a Certificate of Compliance by the Energy Regulatory Commission (*ERC*); and (2) ready to inject power to the grid. RE Developers with existing RE facilities that have been in operation for more than seven years shall not be entitled to ITH, except for additional investment in RE Resources. RE Developers undertaking discovery and development of new RE resources distinct from their registered operations may qualify as new projects, provided that they set up separate books of accounts that are registered and approved by the BIR office where the RE Developer is required to be registered. In such cases, a fresh package of ITH from the start of commercial operations shall apply.

• For additional investments in the RE project, the period of availment of ITH shall not exceed three times the period of the initial availment by the existing or new RE project or covering new or additional investments. ITH for additional investments in existing RE projects shall be applied only to the income attributable to the additional investment. Examples of additional investments include improvements, modernization, or rehabilitation duly registered with the DOE, which may or may not result in increased capacity. The DOE and BOI shall issue a certification on the amount or percentage of additional income generated by the additional investment in an existing project to be attached to the ITR filed with the BIR.

b) Net Operating Loss Carry-Over (*NOLCO*)
The NOLCO during the first three years from the start of commercial operation shall be carried over as a deduction from gross income for the next seven consecutive taxable years immediately following the year of such loss. The availment of NOLCO shall be subject to the following conditions: (1) NOLCO has not been previously offset as a deduction from gross income; (2) NOLCO results from operations and not from the availment of incentives under the Renewable Energy Act; (3) RR No. 14-2001, which implements provisions of the NIRC relative to the allowance of NOLCO as a deduction from gross income, shall be strictly followed.

c) Corporate Tax Rate of 10%
After the availment of the ITH, registered RE Developers shall be subject to corporate tax rate of 10% on their net taxable income. The RE Developer must pass on the savings to the end-users in the form of lower power rates. To avail themselves of this incentive, the RE developer must submit the following requirements to the BIR: (1) Certificate of Endorsement by the DOE; (2) a valid, subsisting and RE service / operating contract; and (3) a sworn undertaking stating that the RE developer: (a) has not been found to have breached its obligations under the RE service/ operating contract; and (b) shall pass on the savings derived from the incentive in the form of lower power rates. To further prove that the RE Developer has, during the previous year, passed on the savings to end-users in the form of lower power rates, the RE Developer shall submit ERC-approved rates to the BIR.

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. However, if the RE Developer applies for this incentive, the project or its expansions shall no longer be eligible for ITH.

Plant, machinery and equipment that are reasonably needed and actually used for the exploration, development and utilization of RE resources may be depreciated using a rate not exceeding twice the rate which would have been used had the annual allowance been computed. The methods of accelerated depreciation that may be adopted are (1) the declining balance method; or (2) the sum-of-the years digit method.

e) Zero Percent Value-Added Tax (*VAT*) Rate
Subject to compliance with the requirements set out in RR No. 7-2022, the following transactions shall be subject to zero-percent VAT: (1) the sale of power or fuel generated through renewable sources of energy, including ancillary services or services necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the transmission system in accordance with good utility practice and the Grid Code; (2) the purchase by an RE Developer of local goods, properties, and services needed for the development, construction, and installation of the plant facilities; and the whole process of exploration and development of RE sources up to its conversion into power, including, the services performed by subcontractors and/or contractors.

f) Tax Exemption of Carbon Credits
All proceeds from the sale of carbon emission credits shall be exempt from any and all taxes.

The above fiscal incentives are also applicable to hybrid and co-generation systems. A hybrid system is "any power or energy generation facility which makes use of two or more types of technologies utilizing both conventional and/or renewable fuel resources", while a co-generation system is defined as "facilities which produce electrical and/or mechanical energy and forms of useful thermal energy such as heat or steam which are used for industrial, commercial heating or cooling purposes through the sequential use of energy". Note however that the fiscal incentives shall apply only in proportion to and to the extent of the RE component and/ or only to the equipment, machinery, and/or devices utilizing RE resources. Following this, the RE developer must secure a DOE certification to distinguish the equipment, machinery, and/or devices utilizing RE Resources.

D. What are the tax incentives available to RE Manufacturers under the Renewable Energy Act?

RE Manufacturers shall be entitled to the following incentives on their sale of RE equipment to RE Developers.

a) VAT-free Importation of Components, Parts, and Materials.
All shipments necessary for the manufacture and/or fabrication of RE equipment and components shall be exempt from VAT on importation, provided that such components are (1) not manufactured domestically in reasonable quantity and quality at competitive prices; (2) directly and actually needed and shall be used exclusively in the manufacture/fabrication of RE equipment; (3) covered by shipping documents in the name of the duly registered manufacturer/fabricator to whom the shipment will be directly delivered by customs authorities; and (4) prior approval of the DOE is obtained before importation.

b) ITH and Exemption.
An RE Manufacturer shall be fully exempt from income taxes levied by the National Government on net incomederived from the sale of RE equipment, machinery, parts, and services for seven years starting from the date of registration and accreditation with the appropriate government agencies.

c) Zero-Rated VAT on Certain Transactions
Subject to compliance with the requirements set out in the RR, the RE Manufacturer shall enjoy zero-rated VAT on its transactions with local suppliers of goods, properties, and services needed in the manufacture/fabrication of RE equipment.

E. What are the tax incentives available to purchasers of RE equipment for residential, industrial or community use?

Purchasers of RE equipment shall be entitled to a rebate equivalent to the VAT passed on to the said purchasers, provided that such purchasers are not VAT-registered. The rebate shall be in the form of a tax credit from the income tax liability during the year of purchase, provided that any unutilized rebate or tax credit shall be forfeited.

SyCipLaw TIP 9:

Years after passage of the Renewable Energy Act, there are now guidelines for RE Developers, RE Manufacturers, and purchasers of RE equipment to avail themselves of fiscal incentives under the Act. RE Developers are entitled to income tax holiday, NOLCO, reduced corporate income tax-rate, accelerated depreciation, zero-percent VAT on certain transactions, and tax exemption of the trade of its carbon credits. RE Manufacturers also enjoy the fiscal incentives under the same Act, namely VAT-free importation of components, parts and materials, income tax holiday, and zero-rated VAT on certain transactions. Purchasers of RE equipment are entitled to claim a rebate equivalent to the VAT passed on to them.