

REPUBLIC ACT NO. 7459, OTHERWISE KNOWN AS THE INVESTORS AND INVENTION INCENTIVES ACT OF THE PHILIPPINES, PROVIDING TAX INCENTIVES AND TAX EXCEPTION PRIVILEGES TO FILIPINO INVE...

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SECTION 1. Scope. — Pursuant to Section 245 of the National Internal Revenue Code (NIRC), as amended, in relation to Section 12 of Republic Act No. 7459, these regulations are hereby promulgated prescribing the guidelines and procedures for the availment by Filipino Inventors of tax incentives and tax exemptions provided for under Sections 5 and 6, Article III of the said Act which provide as follows:

"Sec. 5. Tax Incentives. — Inventors, as certified by the Filipino Inventors Society and duly confirmed by the Screening Committee, shall be exempt from payment of license fees, permit fees and other business taxes in the development of their particular inventions. This is an exception to the taxing power of local government units. The certification shall state that the manufacture of the invention is made on a commercial scale.

"Inventors shall be exempt from paying any fees involved in their application for registration of their inventions.

"Sec. 6. Tax Exemption. — To promote, encourage, develop and accelerate commercialization of technologies developed by local researches or adopted locally from foreign sources including inventions, any income derived from these technologies shall be exempted from all kinds of taxes during the first ten (10) years from the date of the first sale, subject to the rules and regulations of the Department of Finance: Provided, That this exemption privilege pertaining to invention shall be extended to the legal heir or assignee upon the death of the inventor.

"The technologies, their manufacture or sale, shall also be exempt from payment of license, permit fees, custom duties and charges on imports."

SECTION 2. Definition of Terms. — For purposes of these Regulations:

- a) Act — refers to the Inventors and Invention Incentives Act of the Philippines.
- b) Invention — refers to any patented machine product, process including implements or tools and other related gadgets of invention, utility model and industrial design patents duly accredited by the Filipino Inventors Society (FIS).
- c) Inventor — refers to the patentee/s, heir/s or assignee/s of an invention letters patent, Utility Model letters, or Industrial Design letters patent.
- d) Technology — means the application of knowledge or science which shall include all others, such as inventions, innovations and results of researches.
- e) Commercial Scale — refers to the sale of goods and services pertaining to the invention exceeding P200,000 during any twelve (12) month period.
- f) Department — refers to the Department of Science and Technology (DOST).

- g) Patent Office (PO) — refers to the Bureau of Patent, Trademark and Technology Transfer.
- h) Institute — refers to the Technology, Application and Promotion Institute.
- i) Screening Committee — refers to members consisting of technical representatives from the Department of Science and Technology (DOST), the Filipino Inventors Society (FIS), the Department of Trade and Industry (DTI), the Department of Agriculture (DAR) and the Department of Environment and Natural Resources (DENR).
- j) RDI — refers to the Research and Development Institute of the Department of Science and Technology.
- k) Date of First Sale on a Commercial Scale — refers to the first month of any twelve (12) month period where goods and services are sold on a commercial scale, which shall not be earlier than the effectivity date of the Act.
- l) Business taxes — refers to tax on the privilege of carrying trade or business.
- m) Local Government Units — refer to city, provincial and municipal governments.

SECTION 3. Tax Incentives and Tax Exemptions. — A. As an exemption to the taxing power of the local government units, Filipino inventors shall, in the development of their particular inventions, be exempt from the payment of the following to the local government units concerned:

- (a) License fees;
- (b) Permit fees;
- (c) Other business taxes; and
- (d) Fees involved in their application for registration of their inventions.

B. To promote, encourage, develop and accelerate commercialization of technologies developed by local researches or adopted locally from foreign sources including inventions, any income derived from these technologies shall be exempted from all kinds of taxes during the first ten (10) years from the date of the first sale on a commercial scale, provided that this exemption privilege pertaining to the invention shall be extended to the legal heir or assignee upon death of the inventor.

C. The inventor shall be exempt from the following taxes for which otherwise he shall have been directly liable:

- (a) Income tax on the net income derived from the sale of invention products resulting from newly discovered/developed technologies by local researches or new technology adopted from foreign sources whether it be patented machine, product, process including implements or tools and other related gadgets of invention, utility, model and industrial design patents;
- (b) Value added tax (VAT) on the gross receipts/revenues derived from the sale of said invention products, Provided, however, that an inventor shall not be exempt from taxes for which he is not directly liable, e.g. VAT on his purchases of raw materials, supplies and equipment/machineries, which may be shifted to him as part of goods sold or for services rendered;
- (c) Excise taxes directly payable in connection with the sale of invention products;

D. The taxability or exemption from real property taxes of inventions in the form of utility medals, machines, equipment, mechanical contrivances, gadgets, appliances, apparatus, and similar service facilities shall be determined on the basis of the provisions of Section 199 paragraph (O) defining the term machinery and 234, exemptions from real property tax of R.A. 7160, otherwise known as the Local Government Code of 1991; and

the Corresponding Provisions Therefor of the Implementing Rules and Regulations (IRR) of the Code.

SECTION 4. Conditions for Availment of Tax Incentives and Tax Exemptions. — A. Filipino inventor and/or owner of technology, shall submit his application for tax exemption in a form prescribed thereafter, in triplicate, to the Commissioner of Internal Revenue, Attn: Legislative, Ruling and Research Division (LRRD), together with the following documents:

- a. Certification issued by the FIS that the invention is new or original, and the technology is newly developed by local researches or adopted locally from foreign sources;
- b. Confirmation by the Screening Committee;
- c. Certification from the BIR that the manufacture and/or sale of the invention products from technology developed is made on a commercial scale;
- d. Taxpayer Identification Card (TIN) and registration as non—VAT taxpayer;
- e. Initial capitalization required to fund the invention/technology; and
- f. Volume/capacity/amount required in the manufacture and fabrication of the invention/technology to attain the status of commercial scale.

B. Upon approval of the application, a Certificate of Tax Exemption shall be issued by the Commissioner of Internal Revenue which shall be effective on the date of approval thereof.

C. The certification shall include the following information:

- a. Name, address, and other personal circumstances of the inventors.
- b. Technical description, comparative data, and other matters indicating the utility models, industrial design of the invention/technology.

SECTION 5. Taxability of Passive Investment and other Income. — Filipino inventors enjoying tax exemption privileges under the Act shall be subject to the following taxes:

- (a) 20% final withholding tax on interest from Philippine Currency bank deposits, yield or any monetary benefit from deposit substitutes, trust fund and similar arrangements;
- (b) Capital Gains Tax on sales of shares of stock prescribed under Section 21 (d), NIRC; and
- (c) Capital gains tax on sales of real property prescribed under Section 21 (e), NIRC.

SECTION 6. Taxability as Withholding Agent. — An inventor shall be constituted at a withholding agent and shall be required to withhold and remit to the BIR withholding tax on his payment as an employer of compensation income to his employees or on his payments to persons subject to expanded withholding tax.

SECTION 7. Bookkeeping and Reportorial Requirements.— An inventor qualified as tax exempt under this provisions of the Act shall keep regular and accurate records of his transactions and shall maintain separate books of accounts of his transaction involving the sale of invention products and technologies in accordance with existing law and the Bookkeeping Regulations. He shall file an annual information return on or before the 15th day of the fourth month following the end of his taxable period which shall be subject to examination by the BIR to determine if the conditions under which he was granted tax exemption are complied with and the taxes due, if any.

SECTION 8. All other existing rules and regulations of the BIR pertaining to payment of taxes which are not

covered by the exemption provided for in Sections 5 and 6 of the Act shall be applicable to inventors qualified under these Regulations.

SECTION 9. These Regulations shall take effect fifteen (15) days after complete publication in the official Gazette or newspaper of general circulation in the Philippines and shall, for income tax purposes, apply to income covering the entire calendar year 1992.

Adopted: 27 July 1993

(Sgd.) ERNEST C. LEUNG
Acting Secretary

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