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RULES AND REGULATIONS IMPLEMENTING THE TAX INCENTIVES PROVIDED UNDER SECTION 3 (B) AND (D) OF REPUBLIC ACT NO. 8502 OTHERWISE KNOWN AS THE “JEWELRY INDUSTRY DEVELOPMENT ACT OF 1...

BIR REVENUE REGULATIONS NO. 1-99, January 06, 1999

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RULE 1.
COVERAGE

Pursuant to Section 6 of Republic Act No. 8502, this Revenue Regulation is hereby promulgated for the effective implementation of the tax incentives under Section 3 (b) and (d) of RA No. 8502, as follows:

SECTION 3. Development Incentives. — The following incentives shall be available to Qualified Jewelry Enterprises in the jewelry industry:

- x x x x x x x x

- Exemption from the imposition of excise tax on all goods commonly or commercially known as jewelry, whether real or imitation pearls, precious and semi-precious stones and imitations thereof; all goods made of, or ornamented, mounted or fitted with precious metals or imitations thereof, as specifically mentioned in Section 150(a) of the National Internal Revenue Code of the Philippines, as amended;

- x x x x x x x x

- Additional deduction from taxable income of fifty percent (50%) of expenses incurred in training schemes approved by the appropriate agency and which shall be deductible during the financial year the expenses were incurred;

x x x x x x x x x x x x x x x x."

RULE 2.
DEFINITION OF TERMS
For purposes of these Revenue Regulations, the terms as used herein shall have the following meaning:

(a) "Fine jewelry" — means

(1)

Articles of personal adornment made of precious metals, stones, pearls or combinations thereof: (e.g., rings, bracelets, necklaces, brooches, earrings, watch-chains, fobs, pendants, tie, pins, cuff links, combs, tiaras, dress-studs, religious or other medals or insignia).

(2)

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Articles made of precious metals, with or without stones for personal use of a kind normally carried in the pocket, handbag or (in one's person: e.g., cigarette cases, powder boxes, chain purses, cachou boxes).

(b) "Gemstone" — means diamond, ruby, emerald, sapphire, opal, amethyst, beryl, topaz, garnet and all other gems and stones that are used in jewelry making.

(c) "Imitation Jewelry" — means articles falling either under a(1) or a(2) in the preceding paragraph but made of base metals and/or materials other than precious metals; of imitations of gemstones, of natural materials; and/or combination thereof. Base metals refer to iron and steel, copper, nickel, aluminum, lead, zinc, tin and articles thereof, and other base metals and their articles as defined in Section XV of the Tariff and Customs Code of the Philippines, as amended.

(d) "Imitations of Precious Metals" — means non-precious metals electroplated to simulate precious metals.

(e) "Imitations of Gemstones" — means any man-made reproduction, copy, imitation, likeness and semblance of any of the aforementioned stones, processed, manufactured, or done in any method or procedure.

(f) "In-house Training" — refers to a delivery system of technical and vocational education which is carried out within the business premises or in the production plant of a qualified jewelry enterprise. The conduct of the training by the accredited jewelry enterprise is normally tied up with a private or government training institution.

(g) "Precious Metals" — means precious metals which include gold, silver, platinum, palladium, rhodium, ruthenium, iridium and osmium. This includes alloys of precious metals, solders and plating chemicals such as rhodium and palladium plating solutions and potassium gold cyanide (minimum 68.3% gold) and potassium silver cyanide (approximately over 68% silver) and silver cyanide (over 54% silver) in salt solution.

(h) "Qualified Jewelry Enterprise" — means an enterprise engaged in any aspect in the manufacturing of jewelry and in particular though not exclusively:

- in the manufacture of fine jewelry;

- in the manufacture of imitation jewelry;

- cutting and polishing, forming of gemstones or in producing imitations thereof;

- pearl farming, pearl culturing, and in the production of imitation pearls;

- refining and/or forming of precious metals and/or imitations of precious metals;

- manufacture of articles made of precious metals utilizing goldsmithing and/or silversmithing techniques;

- the manufacture and/or processing of other raw materials and parts used in the manufacture of jewelry; and

- activities in support of jewelry enterprise, such as: electroplating; gemstone appraisal and certification; assaying and refining; and import consolidator.

It must be duly registered and accredited by the Board of Investment (BOI), for the current year, as evidenced by a valid Certificate of Accreditation issued by the BOI. A Qualified Jewelry Enterprise is categorized by BOI, based on its total assets, as either:

Micro enterprise - with total assets of less than P1,500,000

Small enterprise - with total assets of P1,500,001 to P15,000,000

Medium scale enterprise - with total assets of P15,000,001 to P60,000,000

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Large scale enterprise - with total assets of over P60,000,000

(i) "Training schemes" — refer to an organized activity primarily designed for the systematic development of knowledge, skill and behavior pattern required for the adequate performance of a given job or task and conducted by a training institution.

RULE 3.
IMPLEMENTATION OF THE EXCISE TAX EXEMPTION OF QUALIFIED JEWELRY ENTERPRISES PURSUANT TO SECTION 3(b) of RA 8502
SECTION 1. Exemption from Excise Tax. — A Qualified Jewelry Enterprise shall be exempt from excise tax on its manufacture and removal of jewelry from its place of production or factory for sale, consumption or for any other disposition. It shall also be exempt from excise tax on its importation of raw materials and supplies, such as but not limited to gemstone and precious metals, or imitations thereof, for use in its manufacture or production of fine or imitation jewelry, or for disposition to another Qualified Jewelry Enterprise for the latter's use in the manufacture or production of fine or imitation jewelry, subject to the provisions of the joint Department of Finance-Bureau of Customs (DOF-BOC) Order implementing the provisions of R.A. No. 8502 on the importation made by such Qualified Jewelry Enterprise. In general, manufactured or produced jewelry, if shown to have been purchased from a Qualified Jewelry Enterprise, shall be presumed exempt from the excise tax, provided for under this Section, in the hands of the purchaser or the possessor thereof.

Provided, however, that such Qualified Jewelry Enterprise shall be liable to the Value Added Tax and such other applicable internal revenue taxes on its sale, barter, exchange or other transactions, pursuant to the provisions of the National Internal Revenue Code of 1997.

Provided, further, that the Qualified Jewelry Enterprise shall submit to the Bureau of Internal Revenue (BIR) a certified true copy of its Certificate of Accreditation as a Qualified Jewelry Enterprise, issued by the Board of Investment (BOI), in order to avail of the exemption from excise tax herein provided.

SECTION 2. Registration of the Factory or Place of Manufacture. — Pursuant to Section 154 of the NIRC of 1997, the jewelry manufacturing plant of the Qualified Jewelry Enterprise shall, before commencing operations, be first registered with the Revenue District Office having jurisdiction over the area where such manufacturing plant is located. The Revenue District Officer concerned shall accordingly issue a Permit to Operate the Jewelry Manufacturing Plant.

For Qualified Jewelry Enterprises that are already operational prior to their accreditation with BOI, submission of a copy of the Permit previously issued by the BIR would suffice.

SECTION 3. Requirements and Procedures for Importations. —

- The importer must register with the Revenue District Office having jurisdiction over the importer's principal place of business in accordance with existing regulations. For every importation, he must file a written application for Permit to Import with the Revenue District Office where his principal place of business is registered, which shall be accompanied by the following documents:

- BIR Certificate of Exemption from Excise Tax;

- Name and Address of Supplier(s)/Consignors;

- List of Jewelries (with description) to be imported; and

- Pro-Forma Invoice.

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- Upon arrival of the goods in Custom's Custody, the importer shall apply for Authority to Release Imported Goods (ATRIG) with the Revenue District Office having jurisdiction over the port of entry which shall be accompanied by the following documents:

- Permit to Import;

- Commercial Invoice, Letter of Credit (LC), Bill of Lading, Packing List, and other importations documents, where applicable; and

- Import Entry and Internal Revenue Declarations.

- Upon issuance of the ATRIG, the concerned RDO shall assign Revenue Officer(s) to supervise the release of imported goods from Custom's Custody and shall submit a report thereafter.

- Permit to Import and Authority to Release Imported Goods (ATRIG) for raw materials and supplies which are exempt from excise tax pursuant to Section 1 of the Rule 3 hereof shall be stamped "EXCISE TAX EXEMPT".

- Revenue District Officers charged with the processing of all applications for Permit to Import and/or ATRIG shall compile a list of approved application, which must tally with the withdrawal certificate/gate pass or other documents issued by the Bureau of Customs upon release of the imported goods. Any discrepancy noted must immediately be reconciled and an assessment of additional excise tax, if warranted, shall be issued immediately.

SECTION 4. Manufacturer's or Producer's or Importer's Sworn Statement. — The provisions of Section 130 (C) of the NIRC of 1997 to the contrary notwithstanding, every Qualified Jewelry Enterprises shall file with the Commissioner of Internal Revenue or his duly authorized representative every January 15th and July 15th of each year a sworn semestral report showing, among other information, the products manufactured, produced or imported during the period and their corresponding gross selling price or the market value thereof. The term "gross selling price" means the total amount of money or its equivalent which the purchaser pays or is obligated to pay to the seller in consideration of the sale, barter or exchange made by such Enterprise, excluding the value added tax thereon. Provided, however, that for purposes of the value added tax, sales discount granted and indicated in the sales invoice at the time of sale and the grant of which does not depend upon the happening of a future event, may be excluded in computing for such gross selling price, pursuant to the provisions of Section 106 of the NIRC of 1997.

RULE 4.
IMPLEMENTATION OF THE ADDITIONAL DEDUCTION OF FIFTY PERCENT FOR TRAINING EXPENSES INCURRED BY A QUALIFIED JEWELRY ENTERPRISE PURSUANT TO SEC. 3(d) OF RA 8502

SECTION 1. Additional Deduction For Training Expense. — A Qualified Jewelry Enterprise providing training to its employees may avail of the additional deduction equivalent to fifty percent (50%) of the expenses incurred in training schemes for the purpose of computing the taxable income. The additional deduction of fifty percent (50%) shall be in addition to the allowable ordinary and necessary expenses on training which are fully deductible as a business expense in accordance with the provision of the NIRC of 1997. Provided, however, that the benefit arising from the said 50% additional deduction shall not be treated as a taxable income of the Enterprise in computing for its taxable income.

SECTION 2. Conditions for Availment of the Tax Incentive. —

(a)

A Qualified Jewelry Enterprise must submit a certified true copy of its Certificate of Accreditation issued by the

BOI Managing Head or his duly authorized representative to the BIR.

(b)

The training scheme must be approved by the Technical Education and Skills Development Authority (TESDA).

The TESDA must certify as to the description (objectives, type of training to be given, course syllabus, among others) and the cost of the training program. The TESDA must likewise certify that the training program was actually conducted and was instrumental to the acquisition of appropriate skills by recipient trainees employed in the accredited jewelry enterprise. A certification from the TESDA as to the accreditation of, and the actual conduct of, the training program must be secured and submitted to the BIR.

In-house training conducted by the qualified jewelry enterprise should also be accredited and approved by the TESDA. A certification from the TESDA must likewise be submitted to the BIR in cases of in-house training.

SECTION 3. Period Considered for Tax Deduction. — The additional deduction for training expenses shall be claimed in the taxable year in which the training expenses have been incurred.

SECTION 4. Documentary Requirements. — The tax deduction may be availed of by the Qualified Jewelry Enterprise upon filing of the quarterly/final income tax return accompanied with the following supporting documents to the BIR:

(a) Certified true copy of BOI accreditation;

(b) Certifications from TESDA as to registration of training program and actual conduct of training; and

(c) Official Receipts of Training Expenses.

RULE 5.
REQUIREMENT TO KEEP BOOKS OF ACCOUNTS AND OTHER ACCOUNTING RECORDS
All Qualified Jewelry Enterprises availing of tax incentives under RA 8502 shall keep books of accounts and other pertinent records pursuant to the provisions of Title IX, Chapter 1, Section 235 of the National Internal Revenue Code of 1997. These records shall be subject to inspection and verification by any duly authorized revenue officer for the purpose of ascertaining compliance with the conditions under which they have been granted the tax incentives, and their tax liability, if any.

RULE 6.
PENAL PROVISION
Any Qualified Jewelry Enterprise which shall make fraudulent claims, submit incorrect information, keep false records of transactions or operations shall be liable to the pertinent penalties provided under Title X — Statutory Offenses and Penalties of the National Internal Revenue Code of 1997 without prejudice to prosecution for any other acts punishable under existing laws.

RULE 7.
REPEALING CLAUSE
All administrative orders, rules and regulations, or parts thereof which are inconsistent with the provisions of these Rules and Regulations are hereby repealed, amended, or modified accordingly.

RULE 8.
EFFECTIVITY
These Regulations shall take effect fifteen (15) days after its publication in the Official Gazette or in any

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newspaper of general circulation provided, however, that the right of a Qualified Jewelry Enterprise to the fiscal incentives herein provided shall commence on the date of its accreditation, but not earlier than July 9, 1998 (date of effectivity of R.A. 8502) as a Qualified Jewelry Enterprise pursuant to R.A. 8502 and its implementing Rules and Regulations.

Adopted: 06 Jan. 1999

(SGD.) EDGARDO B. ESPIRITU
Secretary of Finance

RECOMMENDING APPROVAL:

(SGD.) BEETHOVEN L. RUALO
Commissioner of Internal Revenue

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