PUBLISHING PERTINENT PROVISIONS OF THE “RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF REPUBLIC ACT NO. 7471, THE PHILIPPINE OVERSEAS SHIPPING DEVELOPMENT ACT”.

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Republic Act No. 7471, otherwise known as the Philippine Overseas Shipping Development Act, was approved by the President on May 5, 1992. The Act provided for tax incentives to Philippine Shipping Enterprises (PSE) engaged in Philippine overseas shipping. Such incentives include exemption from import duties and taxes on vessels and spare parts purchased by the PSE and exemption from income tax. Furthermore, local manufacturers or dealers who sell machinery, materials, etc. to a PSE shall be entitled to a supplier tax credit, as provided for in the Act.

Presented herewith are pertinent provisions of the rules and regulations implementing this Act as approved by the Secretary of Finance, Governor of Central Bank and Administrator of the Maritime Industry Authority on November 17, 1992:

> "Pursuant to the provisions of Sec. 10 thereof, these Rules and Regulations to Implement the Provisions of Republic Act No. 7471, the Philippine Overseas Shipping Development Act, are hereby promulgated:"
>
> "SECTION. 1.02 Definitions. — As used in Republic Act No. 7471 and these Rules and Regulations: xx xx
>
> c. Philippine Overseas Shipping means the transport of goods and/or passengers by a Philippine — registered vessel beneficially/disponently owned and operated by a Philippine Shipping Enterprise, except when the ship is operated solely between ports in the Philippines.
>
> d. Philippine Shipping Enterprise means a citizen of the Philippines or an association or corporation organized under the laws of the Philippines at least sixty per cent (60%) of the capital of which is owned by citizens of the Philippines, and exclusively engaged in Philippine Overseas Shipping; xx xx xx
>
> e. Philippine registered vessel means a vessel registered in accordance with Philippine laws and regulations. Philippine registration can be categorized into two:
>
> (i)
>
> Permanent registration — This refers to the registration of a vessel owned by a Philippine Shipping Enterprises;
>
> (ii)
>
> Temporary registration — This refers to the registration of a vessel operated by a Philippine Shipping Enterprise as a disponent owner or demise owner as duly approved by the MARINA.
>
> " SECTION. 2.01 Qualification of Applicants. — To avail of the incentives under the Act, as implemented by these Regulations, a Philippine Shipping Enterprise must comply with the accreditation/registration requirements specified under MARINA Memorandum Circular No. 33-A or 51 as an overseas shipping company and with other qualifications as the MARINA may deem necessary."

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" SECTION. 4.03 Exemption from Import Duties and Taxes. — The following importations by a Philippine Shipping Enterprise, when recommended by the MARINA, shall be exempt from import duties and taxes:

a. Vessels for registration under the Philippine flag;

b. Spare Parts for the repair and/or overhaul of vessels, provided that such items are destined to either:

(i)

a Philippine-dry-docking or repair facility accredited by the MARINA and registered as a customs-bonded warehouse, which will undertake the necessary repairs and works on the vessel, or

(ii)

the vessel in which the items are to be installed; provided, that if such imported items are found in locations other than the two (2) mentioned in (i) and (ii) above, or in places not authorized by the BOC, the person or entity found in possession of any of these items shall be liable for the full duties and taxes due thereof, and the applicable surcharges and other penalties."

" SECTION. 4.04 Suppliers' Tax Credit. — Local manufacturers or dealers who sell machinery, equipment, materials and spare parts to a Philippine Shipping Enterprise shall be entitled to a tax credit for the full amount of the import duties and taxes that had been actually paid thereon, subject to the approval of the Secretary of Finance, upon the recommendation of the MARINA."

" SECTION. 4.05 Exemption from Income Tax. — A Philippine Shipping Enterprise shall be exempt from payment of income tax on income derived directly from Philippine Overseas Shipping up to 5 May 2002, Provided, that:

a. The entire net income, after deducting not more than ten per cent (10%) thereof for distribution of profits or declaration of dividends, which would otherwise be taxable under the provision of Title II of the National Internal Revenue Code, is actually reinvested in accordance with these Regulations not later than 5 May 2005 for:

(i)

the construction, purchase or acquisition of Vessel and related equipment; and/or

(ii)

the improvement or modernization of its vessels and related equipment.

b. The cumulative amount so reinvested shall not be distributed as profits or dividends until after 5 May 2012 or until the vessel or related equipment so acquired have been fully paid, whichever date comes earlier.

c. Any amount not so reinvested, or withdrawn prior to the expiration of the period stipulated in paragraphs (a) and (b) hereof, respectively, shall be subject to the payment of the corresponding income tax due thereon, including penalties, surcharges and interests, as provided for in the National Internal Revenue Code.

d. The income derived from Philippine Overseas Shipping entitled to exemption from the payment of income tax hereunder is limited to income from the transport of goods and/or passengers overseas. It does not include income not directly related to transport of goods and passengers overseas.

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e. A Philippine Shipping Enterprise availing itself of this incentive shall submit to the BIR reports and other documents that shall be prescribed in revenue regulations that shall be issued for this purpose."

" SECTION. 5.05 Requirements for Exemption from Income Tax. — For exemption from the payment of income tax, the application, in lieu of the documents required to be submitted under Sec. 5.02(a.) - On the Vessel Concerned shall be supported by the following:

a. A favorable indorsement from the MARINA recommending that the Philippine Shipping Enterprise be entitled to income-tax exemption, and issued a Certificate of Income-Tax Exemption;

b. The documents required to be submitted in Section 5.02 (b.) of these Regulations On the applicant.

c. Other documents that may be required by the MARINA and the BIR to be prescribed in revenue regulations to be issued for this purpose."

" SECTION. 6.02 Application Favorably acted Upon. — Applications favorably acted upon by the MARINA shall be implemented as follows:

xx xx xx

c. For Exemption from Import Duties and Taxes — shall be favorably recommended to the BOC through the DOF;

d. For Suppliers' Tax Credit — shall be favorably recommended to the Sec. of Finance, through the One-Stop-Shop Inter-Agency Tax Credit and Duty Drawback Center created under Administrative Order No. 266;

e. For Income Tax Exemption — shall be favorably recommended to the BIR for the issuance of a "Certificate of Income Tax Exemption" under R.A. No. 7471."

" SECTION. 7.01 Registration of Vessels. — All vessels owned and/or operated by a Philippine Shipping Enterprises and availing of the incentives under the Act and these Regulations, shall be registered under the Philippine Flag. Said Vessels can only be deleted from the Philippine Registry after the MARINA has determined that:

a. No other Philippine Shipping Enterprise is interested in acquiring the vessel; or

b The vessel has to be scrapped."

For the information of all concerned.

Adopted: 4 Jan. 1993

(Sgd.) JOSE U. ONG
Commissioner of Internal Revenue

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