REGULATIONS IMPLEMENTING SECTION 4 OF RA. NO. 8748, ENTITLED “AN ACT AMENDING REPUBLIC ACT NO. 7916,” OTHERWISE KNOWN AS THE SPECIAL ECONOMIC ZONE ACT OF 1995, AMENDING FOR THIS...

BIR REGULATIONS NO. 1-2000, November 12, 1999

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SECTION 1. Scope . — Pursuant to Section 4 of Republic Act No. 8748, amending R.A. No. 7916 as implemented by Revenue Regulations No. 12-97, these Regulations are hereby promulgated to amend the provisions of the aforesaid Revenue Regulations No. 12-97 in respect of sharing, distribution and manner of disposition of the two percent (2%) share of local government units from the five percent (5%) special tax on gross income earned, in lieu of all taxes, except the real property tax, imposed on PEZA-registered enterprises registered under and operating pursuant to the Special Economic Zone Act, as implemented by the Philippine Economic Zone Authority (PEZA).

SECTION 2. Sharing and Distribution of the Proceeds From the 5% Special Tax Paid by PEZA-Registered Enterprises. — Pursuant to Section 24 of R.A. No. 7916, as amended by R.A. 8748, PEZA-registered enterprises shall, in lieu of all taxes (except the real property tax on land owned by developers), pay a tax equivalent to five percent (5%) based on gross income earned, which shall be shared and distributed as follows:

(a) To the National Government

30 %

(b) To the Treasurer's Office of the Municipality or City where the registered enterprise is located

2 %

SECTION 3. Rules of Apportionment . — In case the Special Economic Zone (ECOZONE) is situated and encompasses the territorial jurisdiction of more than one (1) city or municipality, the share of each city or municipality from the 2% special tax paid by ECOZONE enterprises shall be determined in accordance with the implementing PEZA regulations on the subject. The Philippine Economic Zone Authority (PEZA) shall issue certification as to the exact share of the concerned cities or from the 2% tax as allocated under the implementing rules of PEZA.

SECTION 4. Nature of the 5% Tax and Extent of Tax Exemption.—

The above 5% tax is imposed on "gross income earned" hence, income tax in nature and a national internal revenue law in character. Registered ECOZONE enterprises shall be exempt from all other taxes, national or local, except the real property tax on land owned by developers, pursuant to Section 24 of R.A. No. 7916, as amended by R.A. No. 8748.

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SECTION 5. Returns and Payment of the Tax. —

(a) Quarterly and Final Adjustment Tax Return. — Every ECOZONE registered enterprise subject to the herein 5% special income tax shall file a quarterly and a final adjustment income tax return showing, among others, (1) its "gross income earned" for such period; (2) the amount representing the 5% tax on such "gross income earned;" (3) the amount representing the aforementioned 2% share of the city/municipality; (4) in case the enterprise occupies a parcel of land situated within the territorial boundaries of two or more cities/municipalities, the area of land within the jurisdiction of each city/municipality and the share from the tax of each city/municipality.

The aforesaid enterprise shall file quarterly income tax return within sixty (60) days after the close of each of the first three (3) quarters and a final adjustment income tax return covering the entire taxable year, not later than the fifteenth (15th) day of the fourth (4th) month following the close of its taxable year, whether a calendar or a fiscal year accounting period, in accordance with Title II, Chapter XII, of the National Internal Revenue Code of 1997: Provided, however, that it shall prepare and accomplish at least five (5) copies thereof for filing, as follows: (1) Original and duplicate original copies thereof for filing with the duly authorized representative of the Commissioner of Internal Revenue, for the purpose of payment of the aforementioned 3% share of the National Government; (2) two (2) copies thereof for the purpose of payment of the aforesaid 2% share of the city/municipality; and (3) one (1) copy thereof for the file of the said enterprise: Provided, further, that if two or more cities/municipalities are entitled to a share in the two percent (2%) tax share of cities/municipalities, as many copies shall be accomplished for the purpose of filing at least two (2) copies thereof with the concerned cities/municipalities.

(b) Filing Procedure. — The ECOZONE enterprise shall present and submit its aforementioned tax return to the duly authorized representative of the Commissioner of Internal Revenue. After payment of the 3% tax share of the National Government, all copies thereof shall be stamped received The said duly authorized representative of the Commissioner shall secure the original and duplicate original copies thereof for BIR purposes. The remaining copies thereof shall be returned to the said enterprise, one (1) copy thereof for its file, and the remaining copy, duly stamped received by the said authorized representative, shall be submitted to the concerned city/municipal treasurer.

(c) Additional Attachment. — The said enterprise shall submit with its quarterly income tax return a separate schedule showing (1) the "gross income earned" for the quarter without, however, showing the details on how the same has been computed; (2) the 5% special tax due thereon; (3) the 3% tax share of the National Government; and (4) the share of each city/municipality from the 2% tax share of cities and municipalities. The same schedule, in addition to its duly audited financial statements, shall be submitted with its annual final adjustment return: Provided, however, that for this purpose, the said schedule shall show the details how its "gross income earned" has been computed. Provided, finally, that all ECOZONE establishments shall secure on an annual basis a certification from PEZA that (1) the establishment is a bona-fide PEZA-registered establishment entitled to the 5% special tax on gross income and that (2) whenever applicable, the percentage allocation of the 2% share in case of overlapping municipalities/cities.

SECTION 6. Authority to Issue Any Deficiency 5% Special Income Tax Assessment. —

(a) Jurisdiction. — Pursuant to Section 6 of the National Internal Revenue Code of 1997, in relation to R.A. No. 7916, as amended by R.A. No. 8748, the power to audit and assess the herein 5% special income tax shall be under the exclusive jurisdiction of the Commissioner of Internal Revenue or his duly authorized representative.

(b) Distribution and Collection of the Deficiency Tax Assessed. — Three-fifth (3/5th) or sixty percent (60%) of the 5% special income tax assessed, inclusive of increments, representing the share of the National Government, shall

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be collected by the Commissioner or his duly authorized representative. Two-fifth (2/5th) or forty percent (40%) thereof shall be collected by the concerned city/municipality, representing its share from the 5% special income tax on ECOZONE enterprises.

(c) Related Party Information. — The Commissioner or his duly authorized representative shall furnish the concerned city/municipal treasurer with one (1) certified copy of the formal deficiency 5% special income tax assessed against an ECOZONE enterprise at the same time the same is issued to the said taxpayer. Hence, formal deficiency tax assessment for issuance to such enterprises shall show the following:

> "CERTIFIED COPY:
>
> The Treasurer
> City/Municipality of _____
> _____

Unless the taxpayer has duly protested against the deficiency tax assessment, the same shall be paid by the taxpayer not later than the date prescribed for its payment, as shown in the assessment notice, otherwise, the corresponding delinquency increments shall be imposed.

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The taxpayer shall inform the Treasurer of the city/municipality concerned, in writing, whenever it protested against the aforesaid deficiency tax assessment and shall submit therewith a copy of the letter of protest duly filed with the BIR.

(d) Refund/Credit For Erroneously Paid 5% Special Income Tax. —

(1) In The Case Of The 3% Tax Share Of The National Government. — In case of erroneous payment of the tax, the same may be refunded or credited by the BIR, pursuant to the provisions of Section 204 of the National Internal Revenue Code of 1997.

(2) In The Case Of The 2% Tax Share Of The City/Municipality. — In case of erroneous payment of the tax, the amount erroneously paid to the city/municipality shall be refunded by such city/municipality.

SECTION 7. Repealing Clause . — The provisions of Revenue Regulations No. 12-97 and all other revenue issuances which are inconsistent herewith are hereby modified or amended accordingly.

SECTION 8. Effectivity Clause . — These Regulations shall take effect fifteen (15) days after publication in a newspaper of general circulation.

Adopted: 12 Nov. 1999

(SGD.) EDGARDO B. ESPIRITU
Secretary of Finance

Recommending Approval:

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

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