NATIONAL ADMINISTRATIVE REGISTER · JANUARY 8, 2002

AMENDMENT TO THE RULES AND REGULATIONS TO IMPLEMENT THE GUIDELINES ON TRANSFERABILITY OF TAX CREDIT CERTIFICATES ISSUED UNDER ARTICLE 21 OF THE OMNIBUS INVESTMENT CODE OF 1987

, January 08, 2002

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Pursuant to Sec. 9 in relation to Sec. 7 of the Memorandum of Agreement dated October 13, 2000 executed by and between the Board of Investments and the Department of Finance, the following amendments to the rules and regulations to implement the guidelines on transferability of tax credit certificates issued under E.O. 226 are hereby adopted:

SECTION 1. Section 3 of the said rules and regulations is hereby amended to read as follows:

"Sec. 3. For tax credits on raw materials

"(a) The transferee should be a BOI-registered-producer or trader of raw materials, supplies or consumables, or a service provider/exporter, per its registration with the BOI, and it supplies said materials, goods or services to the transferor who uses said material, goods and services in the production of finished products under its own BOI registration.

"(b) For transfer to supplier of services, the amount to be transferred should be the actual billed amount of services rendered or contract amount of services to be rendered.

"(c) For transfer to supplier of materials, supplies or consumables, the materials being used as basis for the transfer need not form part of the transferor's finished product and may include such materials for own productions of inputs and utilities.

"(d) The amount of tax credit should be limited to an inventory level of three (3) months for major materials or six (6) months for minor materials based on the transferor's average monthly consumption of the materials being supplied by the transferee as obtained from the transferor's audited financial statements for the last two (2) years. For this purpose, a material is considered major if its cost reaches at least 10% of the transferor's total raw material cost; otherwise it is considered minor.

"(e) For new companies who have not attained two (2) full years of commercial operations, the amount of tax credits to be transferred shall be based on the consumption rate of the materials derived from transferor's BOI registered capacity, subject to the inventory limit set in the preceding paragraph.

"(f) Projected levels of consumption, for whatever reasons, shall not be accepted as basis for allowing the amount of transfer that exceeds the limits set in the preceding paragraphs."

SECTION 2. Section 4 of the said rules and regulations is hereby amended to read as follows:

Sec. 4. For tax credits on domestic capital equipment

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"(a) The transferee is registered with BOI as manufacturer (to include assembler) of the capital equipment, or component or parts thereof, per its registration with the BOI, which it supplies or has supplied to the transferor.

"(b) The capital equipment, components or parts subject of the transaction being used as basis for the transfer are or will be used by the transferor for the production of its BOI registered finished product. Construction materials for civil works in the transferor's factory/plant buildings as well as equipment for selling and administrative operation of the transferor shall not qualify for transfer purposes.

"(c) The amount of tax credits to be transferred shall be limited to the actual cost of acquisition of the capital equipment, component or parts declared as basis of the request for transfer."

SECTION 3. These amendments shall take effect fifteen (15) days after publication in a newspaper of general circulation.

BOARD OF INVESTMENTS

DEPARTMENT OF FINANCE

(SGD.) GREGORY L. DOMINGO

(SGD.) CORNELIO C. GISON

Vice-Chairman & Managing Head

Undersecretary

Signed in the Presence of:

(SGD.) LUCITA P. REYES

(SGD.) ERNESTO Q. HIANSEN

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