

IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9399

DOF DEPARTMENT ORDER NO. 33-07, September 11, 2007

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Pursuant to Section 3 of Republic Act No. 9399, the following Rules and Regulations are hereby promulgated to implement the provisions of said Act.

Rule 1

Title, Purpose and Construction

Article 1. Title. These Rules shall be known as the Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9399, otherwise known as "An Act Declaring a One-Time Amnesty on Certain Tax and Duty Liabilities Inclusive of Fees, Fines, Penalties, Interests and Other Additions Thereto, Incurred by Certain Business Enterprises Operating Within the Special Economic Zones and Freeports Created Under Proclamation No. 163, Series of 1993; Proclamation No. 216, Series of 1993; Proclamation No. 420, Series of 1994; and Proclamation No. 984, Series of 1997, Pursuant to Section 15 of Republic Act No. 7227, as Amended, and for Other Purposes."

Article 2. Purpose. These Rules are promulgated to prescribe procedures and guidelines to effectively implement the grant of the one-time remedial tax amnesty on all applicable tax and duty liabilities, including local taxes and impositions, incurred by registered business enterprises operating within Special Economic Zones and Freeport Zones created by virtue of Section 15 of RA No. 7227, as amended, or that might have accrued to said business enterprises arising from the rulings of the Supreme Court in *John Hay People's Alternative Coalition vs. Lim*, G.R. No. 119775 dated October 24, 2003, and *Coconut Oil Refiners Association, Inc. vs. Torres*, GR. No. 132527, dated July 29, 2005.

Article 3. Construction. These Rules shall be construed and applied in accordance with and in furtherance of the policies and objectives of RA 9399. In case of conflict or ambiguity, which may arise in the implementation of these Rules, the Department of Finance, in coordination and in consultation with the concerned government agencies/corporations mentioned in Section 3 of RA 9399, shall issue the necessary clarification.

Rule 2

Coverage

Article 4. Coverage. Business enterprises operating, authorized, duly registered and granted with tax and duty incentives prior to the effectivity of RA 9399, within the following Special Economic Zones and Freeport Zones may avail themselves of the one-time remedial amnesty, to wit:

- Clark Special Economic Zone (CSEZ) created under Proclamation No. 163, series of 1993;
- Poro Point Special Economic and Freeport Zone (PPSEFZ) created under Proclamation No. 216, series of 1993;
- John Hay Special Economic Zone (JHSEZ) created under Proclamation No. 420, series of 1994; and
- Morong Special Economic Zone (MSEZ) created under Proclamation No. 984, series of 1997.

Rule 3

Procedure for Availment and Scope of Amnesty

Article 5. Procedure for Availment. To avail of the one-time remedial amnesty, business enterprises operating, authorized, duly registered and granted with tax and duty Incentives prior to the effectivity of RA 9399 shall file a notice of availment and the relevant (ax amnesty return with the Bureau of Internal Revenue (BIR), in such form as may be jointly prescribed by the Bureau of Internal Revenue (BIR) and Bureau of Customs (BOC), and, thereafter, pay an amnesty fee in the amount of TWENTY FIVE THOUSAND PESOS (P25,000.00) within a period of six (6) months from the effectivity of RA 9399.

Article 6. Scope of Amnesty. The one-time remedial amnesty for applicable tax and duty liabilities, including local taxes and impositions, shall compromise and be limited only to the difference between all national and local tax impositions under relevant tax laws, rules and regulations, and the five percent (5%) tax on gross income earned by business enterprises, as determined under relevant revenue regulations of the BIR and memorandum circulars of the BOC during the corresponding period.

Rule 4

Exclusions, Immunities and Privileges

Article 7. Exclusions. The one-time remedial amnesty under RA 9399 shall not include applicable taxes and duties on articles, raw materials, capital goods, equipment and consumer items removed from Special Economic Zones and Freeport Zones and entered into the customs territory of the Philippines for local or domestic sale, which shall be subject to the usual taxes and duties, as prescribed in the National Internal Revenue Code of 1997, as amended, and the Tariff and Customs Code of the Philippines, as amended.

Article 8. Immunities and Privileges. Registered business enterprises operating within the subject Special Economic Zones and Freeport Zones who have availed themselves of the one-time remedial amnesty and have complied fully with all the conditions under RA 9399 and these Rules shall be immune from any civil, criminal and/or administrative liabilities arising from, or incident to the nonpayment of taxes, duties, and other charges incurred, or hat may have accrued to them from the date of their registration with the subject economic zones up to the finality of the judgments in John Hay People's Alternative Coalition vs. Lim G.R. No. 119775 dated October 24, 2003 and Coconut Oil Refiners Association, Inc. vs. Torres, GR No. 132527, dated July 29, 2005.

Rule 5

Final Provisions

Article 9. Separability Clause. If for any reason, any section or provision of these Rules be declared unconstitutional or invalid, such parts not affected shall. remain in full force and effect.

Article 10. Repealing Clause. All orders, circulars, memoranda, and other issuance. or parts thereof, which are inconsistent with these Rules, are hereby repealed or modified accordingly.

Article 11. Effectivity. These Rules shall take effect fifteen days after publication two (2) newspapers of general circulation.

Adopted: 11 Sept. 2007

(SGD.) MARGARITO B. TEVES

Secretary

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