AMENDING REVENUE REGULATIONS NO. 1-95, AS AMENDED, AND OTHER RELATED RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF PARAGRAPHS (B) & (C) OF SECTION 12 OF REPUBLIC ACT NO. ...

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SECTION 1. Scope. — Pursuant to the provisions of Sections 244 and 245 of Republic Act No. 8424 or the National Internal Revenue Code of 1997, as amended, in relation to Sections 5 (m) and 13 (b) (11) of Republic Act No. 7227, these regulations are hereby promulgated to implement the tax incentives provisions under Section 12 (c) of R.A. No. 7227, particularly the definition of the term gross income earned and the creditable character of the tax paid therein against taxes paid to foreign governments.

SECTION 2. Declaration of Policy. — Within the framework and subject to the mandate of the Constitution, it is hereby declared the policy of the State to enhance the attractiveness and provide for the greater competitiveness of the Philippines, its various economic zones, including the Subic Special Economic and Freeport Zone Bay, as preferred area/s of foreign and local investments, particularly in the Asia-Pacific region.

SECTION 3. Section 3 of Revenue Regulations No. 1-95 is hereby amended by adding paragraph (4) under sub-section (o) thereof and by adding thereto a sub-section (p), to read as follows:

"o. Gross Income Earned. — x x x

1) Trading and manufacturing enterprises x x x;

2) Service enterprises x x x;

3) Financial Institutions x x x;

4) Subic Bay Regional Enterprise. — For purposes of this paragraph, the term "Gross income earned" refers to the gross sales or gross revenues derived from the business activity within the zone, net of sales discounts and sales returns and allowances and minus the costs of sales or direct costs and other costs that are material in the operations of the business and involves a significant amount in determining the profitability and viability of the business (but before any deduction for administrative expenses or incidental losses during a given taxable period). For financial enterprises, gross income shall include interest income, gains from sales, and other income, net of allowable deductions. The following deductions shall be allowable for the calculation of gross income earned for the following specific types of enterprises:

(a) Trading and manufacturing enterprises

Direct salaries

Production supervision salaries

Raw materials used in the manufacture of products

Goods in process (Intermediate goods)

Finished goods

Supplier and fuels used in production

Toll manufacturing fees

Commission expenses

Distribution expenses

Depreciation of machineries and equipment used in production and building owned and/or constructed by SBMA-registered enterprise

Equipment lease payments

Rent and utility charges associated with. building, equipment and warehouses, or handling of goods Financing charges associated with fixed assets

Corporate management salaries

Administrative salaries

Marketing and sales salaries

Advertising

Research & Development

Royalty Fees

Travel expense

Communication Expenses

Outside Professional Services

Interest & financial charges on working capital

Loss on foreign exchange translation

Loss on disposal of merchandise inventory

(b) Service enterprises

Direct salaries

Service supervision salaries

Direct Materials, supplies used or resold to

another SBMA registered enterprise

Depreciation of machineries, equipment and buildings owned and/or constructed

Equipment lease payments

Financing Charges associated with fixed assets

Rent and utility charges for buildings and capital Equipment

Corporate management salaries

Administrative salaries

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Marketing and sales salaries

Advertising

Research & Development

Royalty Fees

Travel and Entertainment expenses

Communication expenses

Outside Professional Services

Interest & financial charges on working capital

Loss on foreign exchange translation

(c) Financial Services

Depreciation

Equipment lease payments

Financing Charges associated with fixed assets

Rent and Utility

Corporate management salaries

Administrative salaries

Marketing and sales salaries

Materials & supplies used

Advertising

Royalty Fees

Travel and Entertainment expenses

Communication expenses

Outside Professional Services

Insurance

Cost of securities

Bad debts actually ascertained to be worthless and written-off

Interest & financial charges

Loss on foreign exchange translation

(p) Registration of Subic Bay Regional Enterprises. — Any multinational company, whose purpose, as expressed in its organizational documents or by resolution of its Board of Directors or its equivalent, is to engage in regional and/or international trade/services and in business activities such as, but not limited to, manufacturing, including entering into toll and contract manufacturing arrangements, employing commission agents and/or distributors; trading, marketing, financial services and treasury, services may establish in the

Subic Special Economic and Freeport Zone (SSEFZ) its seat of management and the situs of its business transactions, including the recording of its income, from some or all countries in the Asia-Pacific region and or other parts of the world, including the Philippines, by registering as a Subic Bay Regional Enterprise with the Subic Bay Metropolitan Authority.

The following minimum requirements shall, however, be complied with by the said multinational company:

(a) A certification from the appropriate government agency in the multinational company's home country that said multinational company is an entity engaged in regional and/or international trade/service in the Asia-Pacific Region and/or other parts of the world.

1. The Regional Enterprise is engaged in regional and/or international trade/services and in business activities such as, but not limited to manufacturing, including entering into toll and contract manufacturing arrangements, employing commission agents and/or distributors; trading, marketing, financial services and treasury services in some or all of the countries in the Asia-Pacific region and/or other parts of the world, including the Philippines.

2. The Regional Enterprise will establish in the SSEFZ its seat of management and the situs of its business transactions from some or all of the countries in the Asia-Pacific region and/or other parts of the world, including the Philippines.

(b) An undertaking that the multinational company will have an investment in the SSEFZ in an amount not less than US $250,000.00, an inward remittance of not less than US $250,000.00 and that it will employ at least twenty (20) direct employees.

(c) Any violation by the Subic Bay Regional Enterprise of any of the provisions of R A. No. 7227 or the Bases Conversion and Development Act or its implementing rules and regulations, or other terms and conditions of its registration, or any provision of existing laws, shall constitute sufficient cause for the cancellation of its license or registration.

SECTION 4. Section 4 (A) (f) of Revenue Regulations No. 1-95 is hereby amended to insert thereunder sub-section (f.1), to read as follows:

f. x x x

f. 1. Subic Bay Regional Enterprise. —

(1) The Subic Bay Regional Enterprise shall pay a tax of 5% on Gross Income Earned from business transactions in some or all of the countries in the Asia Pacific region and/or other parts of the world, including the Philippines.

(2) The Subic Bay Regional Enterprise shall establish in the SSFEZ its seat of management and situs of its business transactions, including the recording of income, in some or all of the Asia-Pacific region and/or other parts of the world. The Regional Enterprise may engage the services of toll manufacturers, commission agents, and/or distributors in some or all of the countries in the Asia-Pacific region and/or other parts of the world.

(3) The Subic Bay Regional Enterprise may generate revenues from sources within the Customs Territory up to 50% of its total revenues. The income generated from the customs territory will be subject to the tax of 5% on gross income earned as defined under Sec. 3 (o)(4) of these Regulations; Provided, That, if the revenues derived from the customs territory exceed 50% of its total revenues, the excess of the income generated by the Regional Enterprise will be subject to the regular income tax rates in the customs territory.

SECTION 5. Section 6 (b) of Revenue Regulations No. 1-95 is hereby amended, to read as follows:

"b. Tax Credits for Foreign Corporations. — The 5% tax on gross income earned paid herein by foreign

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corporations that are registered as Subic Bay Regional Enterprises shall be considered as payment of income tax. Said tax shall be in lieu of income tax, for purposes of application for tax credits by said foreign corporations in their respective home countries. In addition, no other national or local taxes shall be imposed on the Subic Bay Regional Enterprises.

SECTION 6. Monitoring and Reporting Requirements. — All registered enterprises embraced under these Regulations shall keep separate Books of Accounts, for each country in the Asia Pacific Region in which its operates, which books shall be duly registered with the concerned Revenue District Office, showing among others all transactions within and without the Philippines and the gross income earned therefrom for purposes of the tax herein imposed. Schedules showing sales and gross income earned per country shall be included as part of the enterprise's duly audited financial statement to be filed with its annual final adjustment return.

SECTION 7. Applicability of Existing Laws. Rules and Regulations. —

For the effective implementation of the Act, pertinent provisions of the National Internal Revenue Code, as amended, including Title X on Statutory Penalties and Offenses as well as their implementing rules and regulations shall apply to registered Subic Bay Regional Enterprises operating within the SSEFZ.

SECTION 8. Effectivity. — These Regulations shall take effect fifteen days after its complete publication in the Official Gazette or any newspaper of general circulation, whichever comes first.

Adopted: 27 Sept. 1999

(SGD.) EDGARDO B. ESPIRITU
Secretary of Finance

RECOMMENDED BY:

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

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