

AN ACT AUTHORIZING THE EXEMPTION OF BASIC INDUSTRIES FROM THE PAYMENT OF CERTAIN TAXES AND FOR OTHER PURPOSES.

REPUBLIC ACT No. 3127, June 17, 1961

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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Declaration of policy.—It shall be the policy of the government to encourage the establishment of basic industries through the grant of tax exemptions directed at accelerating the pace of economic and social development of our country.

SEC. 2. Basic Industries.—For purposes of this Act, the following are basic industries:

- (a) Basic iron, nickel, aluminum and steel industries;
- (b) Basic chemical industries, antibiotics and fungicides, including cement manufacture and its allied industries and fertilizers;
- (c) Copper and alumina smelting and refining;
- (d) Pulping and/or including the integrated manufacture of paper products;
- (e) Deep-sea fishing and the canning of sea foods and manufacture of fish meals; the manufacture of nets and other fishing gear;
- (f) Refining of gold, silver and other noble metals;
- (g) Mining and exploration of base or noble minerals or metals, and crude oil or petroleum;
- (h) Production of agricultural crops;
- (i) Shipbuilding and dry-docking;
- (j) Coal and dead burnt dolomite;
- (k) Cattle industry;
- (l) Logging and the manufacture of veneer and plywood;
- (m) Vegetable oil manufacturing, processing and refining;
- (n) Manufacture of irrigation equipment, farm machineries; spare parts and tools for such farm machineries, trucks and automobiles;
- (o) Production and manufacture of textiles, cotton, ramie, synthetic fibers, and coconut coir;
- (p) Manufacture of cigars from both native and Virginia tobacco;
- (q) Manufacture of gasoline and diesel engines.
- (r) Manufacture of ceramics, furnaces, refractories and glass; and
- (s) Manufacture of food products out of cereals, forest and/or agricultural products.

SEC. 3. Definition of terms.—The term "basic iron, nickel, aluminum and steel industries" shall refer to the manufacture of iron, nickel, aluminum and steel from ore materials, including all processes from smelting in blast furnaces to the semi-finished stage, namely, the production of pellets, billets, blooms, slabs or bars; re-rolling into basic forms, either separately or part of the integrated process in the industry, such as sheets, plates, strips, tubes, tubings, conduits, pipes, rails, rods, tin plates, rough castings and forgings.

The term "basic chemical industries, including fertilizers" shall refer to the manufacture of basic industrial

chemicals, such as acids, alkalis, salts, except sodium chloride and calcium hydroxide, intermediates, dyes, colour lakes and toners; explosives, ammunitions, except fireworks; synthetic resins; synthetic rubber; fertilizers; all chemicals for the production of medicants and insecticides; petro chemical; sucro-chemical; and coke and coal chemicals. The term "copper smelting and refining" shall refer to the manufacture of copper into basic forms, such as ingots, bars, billets, sheets, strips, circles, sections, rods, pipes, tubes, castings and extrusions.

The term "pulping" shall refer to the manufacture of pulp from wood, rags, rice straw and bagasse.

The term "integrated manufacture" as used in subsection (d) of Section two herein shall include all processes from pulping up to the manufacture of finished paper products.

The term "deep-sea fishing" shall refer to commercial fishing in sea and inland waters using any tonnage of fishing vessel, of over three tons gross capacity, licensed by the Bureau of Fisheries.

The term "gold and silver refining" shall refer to the smelting of bars or bullion and treatment of chemical re-agents to remove other metal contents leaving gold or silver alone.

"Mining" shall mean the exploration for and extraction of minerals which occur in nature as either solids, liquids or gases; manufacture of ceramics, furnaces and refractories.

"Base metals" shall mean all metallic minerals except noble metals.

"Noble metals" shall refer to gold, silver, diamond, platinum and uranium.

The term "Production" as stated in sub-section (h) of Section two herein shall refer to the activities of planting, caring, harvesting and preparation for manufacture of such agricultural products like lumbang, castor beans, soya beans, peanuts, pili and cashew nuts, raw cotton, maguey, abaca, ramie, buri and buntal fibers, raffia, kenaf, rice and corn.

The term "Shipbuilding and dry-docking" shall refer to the manufacture of vessels, tugboats, barges, tankers and all component parts related to the industry, including dredging and dry-docking equipment.

The term "cattle industry" shall refer to the raising of cattles and the acquisition of equipment, materials and machineries related to the industry, including the manufacture and processing of meat and dairy products.

The term "cement manufacturing and its allied industries" shall refer to the manufacture of cement, roofing materials and pipes with cement as essential component, material, plaster of paris and other similar products.

The term "vegetable oil" shall refer to the manufacturing, processing or refining of vegetable oil from agricultural products such as coconuts, corn seeds, peanuts, soya beans and avocado, cotton seeds, palm nuts, castor beans and lumbang nuts, and the like, for either export or local consumption.

The term "logging and the manufacture of veneer and plywood" shall refer to the production of logs and the manufacture of lumber, plywood, and veneer.

The term "ceramics" shall refer to the manufacture of structural clay products such as bricks, tiles, pipes, crucibles, architectural terra cotta, stone-lining chimney pipes and tops and refractories.

The term "glass" shall refer to an amorphous transparent or translucent brittle material usually made by fusion of silica, soda ash, lime, and salt cake or similar materials.

The term "spare parts" shall include even non-metallic parts of such trucks and cars like batteries and bentlaminated safety glass.

The term "alumina smelting and penning" refers to the production and manufacture of aluminum from alumina into one or more basic forms such as ingots, billets, bars, sheets, strips, circles, tubes, rods, castings, pipes, sections and extrusions.

SEC. 4. Creation and composition of Board of Industries.—For the purpose of carrying out the objectives of this Act, there is hereby created a Board of Industries, hereinafter referred to as the "Board," to be composed of seven members, namely, the Chairman of the National Economic Council, the Secretary of Commerce and Industry, the Secretary of Agriculture and Natural Resources, the Chairman of the Joint Legislative-Executive Tax Commission, and three private citizens representing both the consumers and producers and labor sectors, the last three members to be appointed by the President of the Philippines with the consent of the Commission on Appointments.

The Board shall annually elect a chairman and a vice-chairman from its members. No member of the Board shall serve as chairman and vice-chairman for more than two consecutive years. The period of such service shall be counted from the date he shall have commenced to act as chairman or vice-chairman. In the event of the absence or temporary disability of the chairman, his powers and duties shall be performed by the vice-chairman, and in the event of the absence or temporary disability of both the chairman and vice-chairman, the regular member designated by the Board shall preside over the meetings of the Board.

Four members of the Board shall constitute a quorum. In case of absence or temporary disability of any member who is a government official to sit in any meeting of the Board, he shall send his authorized representative who shall be the next ranking official in his Department, authorized by him to attend and vote for and in his behalf and whose act and vote shall bind the government official represented.

Members of the Board who are government officials shall serve without additional compensation. Private citizens who are appointed to sit in the Board shall receive a per diem of twenty-five pesos for each day of session of the Board actually attended by them. The Chairman and members of the Board shall, however, be allowed traveling and other necessary expenses.

The Board shall, for administrative purposes, be under the Office of the President of the Philippines.

SEC. 5. Powers and duties of the Board.—The Board shall have the following powers and duties;

- (a) To process and approve all applications filed with it for exemptions provided for in Section six of this Act of firms duly qualified under this Act to engage in basic industries and issue the necessary certificates of registration therefor, subject to the requirements prescribed by Section eight and the limitations imposed in Section nine of this Act and to follow up the activities of the applicant for the purpose of determining compliance therewith.
- (b) To conduct surveys of the domestic market as to availability of locally-manufactured and locally-processed machineries and equipment required by tax-exempt firms and determine whether these are available in sufficient quantities and are of reasonable quality and price.
- (c) To gather and compile statistical data from firms exempted under this Act.
- (d) To appoint and fix compensations of a technical staff and other personnel as it deems advisable in accordance with the provisions of the Civil Service Law.
- (e) To promulgate the necessary rules and regulations, for the proper enforcement and to carry out the intents, and purposes of this Act.
- (f) Generally, to exercise all the powers necessary to attain the purposes for which it is organized.

SEC. 6. Exemption from taxes and period of exemption of basic industries.—Any person, partnership, company or corporation who or which is now engaged or shall engage in a basic industry shall be exempted from payment of special import tax, compensating tax, foreign exchange margin fee and tariff duties in respect of the

importation of machinery, spare parts and equipment as follows:

- (a) One hundred per centum of the taxes due during the period from the date of approval of this Act to December thirty-first, nineteen hundred sixty-six;
- (b) Seventy-five per centum of the taxes due during the period from January first to December thirty-first, nineteen hundred sixty-seven; (c) Fifty per centum of the taxes due during the period from January first to December thirty-first, nineteen hundred sixty-eight; after which such person, partnership, company or corporation shall be liable in full to all taxes: Provided, That packaging and assembly plants shall not be entitled to the benefits granted in this Act: Provided, further, That exemptions from taxes for spare parts as mentioned in this section shall only apply to spare parts imported at the time of the original importation of the machinery and equipment.

SEC. 7. Determination of period of exemption.—For the purpose of determining the commencement of exemption provided for in Section six of this Act, the benefits of exemption of basic industries from the payment of taxes under this Act shall, upon approval of the application for exemption by the Board, retroact as of the date of the filing of the application for exemption.

SEC. 8. Requirement prior to importation.—The exemption from special import tax, compensating tax, foreign exchange margin fee and tariff duties on machinery, spare parts and equipment granted to basic industries shall be made only when the Board, after investigation, finds that (a) no machinery spare parts and equipment of domestic manufacture are available in reasonable quantity and quality at reasonable prices; (b) the said machinery and equipment are directly and actually needed and will be used exclusively in the manufacture of articles by the grantee of exemption under this Act; and (c) the shipping documents covering the importation are in the name of the tax-exempt firms to whom the goods shall be delivered directly by the customs authorities.

SEC. 9. Limitation in the grant of exemption.—Where several applications for exemption are filed in connection with the same industry, the Board shall approve them in the order in which they have been filed and for this purpose the date appearing on the registry book of the Board and stamped on the application shall be considered the date of filing: Provided, That where two or more applications are pending at the same time and not all the applications should be approved as they are in excess of the demands of the market, the applicant which has the greater Filipino participation and/or control shall be given preference: Provided, further, That applications heretofore filed before the National Economic Council or the Central Bank for established industries covered under this Act as well as applications before the Department of Finance for tax exemptions for industries covered by this Act shall be considered as filed before the Board of Industries as of their original date of application and the date of such filing shall be considered in determining the priority defined herein.

SEC. 10. Penal Provisions.—Any grantee under this Act who shall make use of the privileges granted hereunder for purposes other than those for which such privileges were granted or who shall in any other manner violate the provisions of this Act or any rules or regulations promulgated by the Board in accordance therewith shall be penalized with imprisonment of not less than five years but not exceeding ten years and fine of not less than eight thousand pesos but not exceeding two hundred thousand pesos, and in addition, such violation shall ipso facto cause forfeiture of the exemption.

Any officer or employee of the Government who by himself or through his agent, acting under his direction and authority, shall connive, abet, or tolerate the violation of the provisions of this Act or any rules and regulations promulgated thereunder or who fails to report within thirty days any violations thereof to the fiscal or chief of police in the place where the violation has taken place shall suffer the penalties prescribed in the preceding paragraph including perpetual disqualification to hold public office.

Any person who shall connive with the grantee of tax exemption or with any officer or employee of the Government in the violation of the provisions of this Act or any rules and regulations promulgated thereunder shall suffer the same penalties prescribed in the first paragraph of this section. In case the grantee is a juridical person, the official or officials who consented to the commission of the offense or tolerated the violation of the provisions of this Act or any rules and regulations promulgated thereunder shall be the person or persons liable.

SEC. 11. Submission of report.—The Board shall submit its annual report to the President of the Philippines and to both presiding officers of Congress not later than the end of every calendar year.

SEC. 12. Funds.—To carry out the provision of this Act, the sum of three hundred thousand pesos is hereby appropriated, out of any funds in the National Treasury not otherwise appropriated for the fiscal year nineteen hundred sixty-one-sixty-two. Thereafter, the amount necessary for the operation of the Board shall be included in the annual General Appropriation Acts.

SEC. 13. Repealing clause.—All Acts or parts of Acts, executive orders, administrative orders, rules and regulations and circulars inconsistent with the provisions of this Act are hereby repealed.

SEC. 14. Special provisions.—Any person, partnership, company or corporation who or which may qualify for similar exemption privileges under existing laws and is qualified under this Act may choose which privilege he desires to avail of, but in no case shall such grantee be entitled to both privileges simultaneously.

SEC. 15. Effectivity.—This Act shall take effect upon approval and shall continue to be effective until December thirty-first, nineteen hundred sixty-eight.

Approved, June 17, 1961.

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