REGULATIONS IMPLEMENTING SECTIONS 9 AND 18 OF REPUBLIC ACT NO. 7686, AN ACT TO STRENGTHEN MANPOWER EDUCATION AND TRAINING IN THE PHILIPPINES BY INSTITUTIONALIZING THE DUAL TRAIN...

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SECTION 1. Scope. — Pursuant to Section 245 of the National Internal Revenue Code (NIRC), as amended, the following Regulations are hereby promulgated to implement the provisions of Sections 9 and 18 of R.A. NO. 7686, otherwise known as "The Dual Training System Act of 1994."

SECTION 2. Definitions of Terms. — For purposes of these Regulations, the following terms shall mean:

a. "Act" — refers to R.A. No. 7686.

b. "Appropriate Authority" — refers to the government entity in charge of formal technical and vocational education and training.

c. "Dual Training System" — refers to an instructional delivery system of technical and vocational education and training that combines inplant training and in-school training based on a training plan collaboratively designed and implemented by an accredited dual system educational institution/training center and an accredited dual system agricultural, industrial or business establishment with prior notice and advice to the local government unit concerned. Under this system, said establishment and the educational institution share the responsibility of providing the trainee with the best possible job qualifications, the former essentially through practical training and the latter by securing an adequate level of specific, general and occupation-related theoretical instruction. the word "dual" refers to the two parties providing instruction; the concept "system" means that the two instructing parties do not operate independently of one another, but rather coordinate their efforts.

d. "Trainee" — refers to a person qualified to undergo the dual training system for the purpose of acquiring and developing job qualifications.

e. "Accredited Dual Training System Educational Institution/Training Center" — refers to a public or private institution duly recognized and authorized by the appropriate authority, in coordination with the business and industry, to participate in the dual training system.

f. "Establishment" — refers to an enterprise and/or service of agricultural, industrial or business establishment.

g. "Accredited Dual Training System Agricultural, Industrial or Business Establishment" — hereinafter referred to as "agricultural, industrial or business establishment" refer to a sole proprietorship, partnership, corporation or cooperative which is duly recognized and authorized by the appropriate authority to participate in the dual training system.

h. "Taxable income" — refers to the pertinent items of gross income specified in the National Internal Revenue Code (NIRC), as amended, less the deductions, if any, authorized by such types of income, by the NIRC or other special laws.

SECTION 3. Incentives Granted to Participating Agricultural, Industrial and Business Establishments. — Agricultural, industrial and business establishments (i.e., corporations, sole proprietorships, partnerships and cooperatives), which shall participate in the Dual Training System shall be entitled to the following tax exemptions and incentives (for illustrative examples, see Annexes A and B[*]):

1. They shall be allowed to deduct from their taxable income the amount equivalent to fifty percent (50%) of the actual expenses paid to the Accredited Dual Training System Educational Institution For The Establishment's Trainees: Provided, that such expenses shall not exceed five percent (5%) of their total direct labor expenses but in no case to exceed Twenty-Five Million Pesos (P25,000,000.00) a year. This incentive shall be over the ordinary and necessary expenses for education and training actually incurred by the establishment during the taxable year.

2. Donation, contribution, bequest, subsidy, or financial aid actually paid or made For The Operation Of The System within the taxable year shall also be deductible for income tax purposes in an amount not in excess of 3% of the taxable business income of the establishment computed without the benefit of deduction. However, if the Dual Training System Educational Program is included in the list of National Priority Programs (NPP), as determined by the National Economic Development Authority (NEDA), then corporate contributions to the System shall be deductible in full from its taxable business income for the taxable period when actually made, subject to the conditions imposed under BIR-NEDA Regulations No. 1-81, as amended, implementing Section 29(h) of the NIRC, as amended by Batas Pambansa Blg. 45.

3. Exemption from Donor's tax, Provided, however, that not more than thirty per centum (30%) of said gifts shall be used by the System for the administration purposes pursuant to Section 94(a)(3) of the NIRC, as amended.

SECTION 4. Incentives Granted to Participating Educational Institutions. — Essential equipment, apparatus and materials imported by accredited dual training educational institutions shall be exempt from taxes (i.e., Value-Added Tax (VAT), ad valorem, or excise taxes) and duties: Provided, That, the importation of these items shall be subject to certain qualifications as provided for under Section 5(II) hereof.

SECTION 5. Availment of the Tax Exemptions and Incentives. —

I. By the Participating Establishments. — In order to avail of the tax exemptions and incentives, the concerned agricultural, industrial or business establishment participating in the Dual Training System shall file and submit to the Revenue District Office (RDO) of his principal place of business the following documents to support and substantiate his claim:

A. For exemption from donor's tax and as allowable deductible expenses from taxable income for income tax purposes. —

(1) A letter of application duly signed by the appropriate authority of the concerned agricultural, industrial or business establishment participating in the Dual Training System;

(2) Memorandum of Agreement duly executed/signed by the accredited dual training system agricultural, industrial or business establishment, the accredited dual training system educational institution/training center and the trainee;

(3) Accreditation of the dual training educational institution by the appropriate authority;

(4) Affidavit or statement under oath by the participating educational institution as to the actual amount received for the establishment's trainee/s, on an annual basis; and the corresponding official receipts acknowledging the contributions/donations made by the participating establishment;

(5) Affidavit or statement under oath by the participating establishment as to the actual amount

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donated/contributed to the Accredited Dual Training System Educational Institution for the operation of the Dual Training System, on an annual basis and the corresponding official receipts issued by the participating educational institution;

(6) Financial statement of the participating establishment for the year when the tax exemption/incentive is being claimed;

(7) SEC/DTI Registration Certificate/s of the participating establishment; and

(8) Articles of Incorporation and By-laws, or other documents showing the nature of business of the concerned establishment.

II. By the Participating Private Educational Institutions. — In order that the essential equipment, apparatus and materials from taxes (i.e., VAT, ad valorem or exercise taxes), the following requirements should be complied with:

(1) Application for exemption shall be filed with the Revenue Office, Department of Finance, Manila, duly signed by the Head of the accredited dual training educational institution or his authorized representative, together with the following documents:

(a) Bill of lading, airway bill, parcel post/notice and other shipping documents;

(b) Commercial invoice and packing list; and

(c) Other relevant documents concerning the shipment.

(2) Certification from the appropriate authority — Technical Education and Skills Development Authority (TESDA) — that the importer is an accredited dual training educational institution, together with a recommendation that the importation/s is/are necessary in connection with the dual training system;

(3) Affidavit/Statement under oath executed by the Applicant stating, among others, that the imported articles are essential and will be used actually, directly and exclusively in connection with the dual training system;

(4) Copy of the Charter, or Certificate of Registration of the educational institution with the SEC or other evidence of the character of the institution;

(5) Certification from the Department of Trade and Industry or appropriate government agency that the articles to be imported are not available locally in sufficient quantity and of comparable quality at reasonable prices; and

(6) Affidavit or statement under oath that the imported articles, which shall be marked "TAX AND DUTY FREE UNDER R.A. NO. 7686" in a conspicuous place as the nature of the importation will permit, will not be sold, transferred or otherwise disposed of in any manner without the prior approval of the Department of Finance.

SECTION 6. List of Equipment, Apparatus and Materials which cna be Imported by Participating Educational Institutions. — A list of essential equipment, apparatus and materials which will enjoy exemption from customs duty and other taxes shall be jointly formulated by TESDA, the Department of Trade and Industry (DTI) and the Bureau of Internal Revenue (BIR).

SECTION 7. Inspection. — The Department of Finance may conduct such inspection as may be necessary before or after approval of any application for tax and duty incentives under the Act to ensure compliance with requirements imposed herein.

SECTION 8. Automatic Appropriation of Taxes and Duties Pertaining to Importation. — The taxes and duties pertaining to the importation of accredited government and dual training educational institutions are deemed

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automatically appropriated, subject to the documentary requirements enumerated above. It shall be charged against the current year's appropriation of the contingency fund. For the initial implementation of the Act, an amount of One Million Pesos (PhP 1,000,000.00) shall be appropriated, and thereafter, such sums as may be necessary for its continued implementation.

SECTION 9. Non-Diminution of Incentives. — Nothing in the Act or in these Regulations shall be construed to diminish or reduce any privilege already enjoyed by the parties concerned under existing laws, decrees, or executive orders.

SECTION 10. Repealing Clause. — All laws, decrees, orders, rules and regulations or parts thereof inconsistent with the Act and these Regulations are hereby repealed or modified accordingly.]

SECTION 11. Effectivity. — These Regulations shall take effect after completion of its publication in two (2) newspapers of general circulation.

Adopted: 07 Aug. 1996

(SGD.) ROBERTO F. DE OCAMPO
Secretary of Finance

Recommending Approval:

LIWAYWAY VINZONS-CHATO
Commissioner of Internal Revenue

ANNEX"A"

TAX INCENTIVES FOR ACCREDITED AGRICULTURAL, BUSINESS AND INDUSTRIAL ESTABLISHMENTS
Under RA 7686 (Dual Training System Act of 1994)

Illustrative Example #1

The Finance Officers of Company A have computed its net income for the taxable year 1996 to be PhP 5,000,000.00. As a DTS-accredited establishment, the Company contributed/donated to its partner school a total amount of PhP 180,000.00 for six (6) trainees at PhP 2,500.00 per month per trainee across 12 months. Direct labor cost for the year reached PhP 1,500,000.00. Assuming that DTS is not listed under NEDA's National Priority Programs and PhP 3,150.00 was determined to be the tax due for Company A's DTS donations, compute for the final taxable income of this Company and the corresponding tax due.

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[*] See Appendix 2

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