REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

RA No. 7459; RR No. 19-93
BIR Ruling No. 505-19
INV - [illegible] - [illegible]
DEC [illegible] 2021

MR. ROLANDO C. DELA CRUZ

Gentlemen:

This refers to your letter request for tax exemption, as registered inventor of a patented product, under Republic Act (RA) No. 7459, otherwise known as the "Inventors and Inventions Incentives Act of the Philippines."

Records show that you are an accredited member of the Filipino Inventors Society, (FIS) Inc. and registered patent holder of the following product:

Utility Model	Patent No.	Date Issued	Date of First Sale
A Reformulated Fast Acting Herbal Preparations to Remove Warts, Moles and the Likes	2-2012-000147	October 31, 2012	January 13, 2018

The Technology Application and Promotion Institute (TAPI) Screening Committee has evaluated and recommended that the above-mentioned patented invention is eligible for the tax incentives pursuant to its Resolution No. 2017-011 dated October 26, 2017, as confirmed under Confirmation Certificate No. 2017-008 issued by TAPI Screening Committee; and that the invention is new and original, that the technology is newly developed by local researches or adopted locally from foreign sources and that the manufacture of the invention product from the technology developed is on commercial scale, as certified by the Filipino Inventors Society, Inc.

In reply, please be informed that Section 6 of RA No. 7459 provides:

> *"**Section 6. Tax exemption.** — to promote, encourage, develop and accelerate commercialization of technologies developed by local researchers or adapted locally from foreign sources including inventions, any income derived from these technologies shall be exempted from all kinds of taxes during the first ten (10) years from the date of the first sale, subject to the rules and regulations of the Department of Finance: provided, that this tax exemption privilege pertaining to invention shall be extended to the legal heir or assignee upon the death of the inventor.*

> *The technologies, their manufacture or sale, shall also be exempt from payment of license, permit fees, customs duties and charges on imports."*

Based on the above law, the said exemption can be availed of by the inventors during the first ten (10) years from January 13, 2018 which is the date of the first sale on a commercial scale, provided that this exemption/privilege pertaining to the invention shall be extended to the inventor's legal heir or assignee upon his death. It must be emphasized, however, that the tax exemption under the aforesaid Section is for the inventor alone and not for any other entity that commercially produces and distributes the invented product. Hence, any income received by the company, RCC Amazing Touch Int'l Inc., from such production/distribution/marketing is subject to the payment of appropriate taxes.[1]

Moreover, while Section 6 of RA No. 7459 does not specifically mention that the exemption therein only applies to the inventor, this should be read in conjunction with Section 2 which states that:

> *"SECTION 2. Declaration of National Policy and Program. – It is hereby declared to be the national policy to give priority to invention and its utilization on the country's productive systems and national life;* ***and to this end provide incentives to inventors and protect their exclusive right to their invention****, particularly when the invention is beneficial to the people and contributes to national development and progress."* (Emphasis supplied)

Likewise, congressional records disclose that it is in the legislative intent of RA No. 7459 that only the original inventor is entitled to the tax incentives.[2] Consistent with the intent of its framers to provide incentives to the original inventors, Section 6 of RA No. 7459 should be construed to refer only to you and should not include RCC Amazing Touch Int'l Inc.

In light of these circumstances, it must be read that the purposes of Section 6 of RA No. 7459 is to exempt the income derived by the inventor from the technologies and invention. To say that the tax exemption is attached to the technology or invention itself regardless of whoever produces, manufactures, and/or markets the same, would create an absurd result wherein it would allow anyone to claim the tax exemption privilege by alleging that it acts as the producer, manufacturer, and/or marketer of the technology or product.[3]

To be clear, the government's purpose in enacting the Inventors and Inventions Incentives Act of the Philippines is to provide incentives to inventors and protect their exclusive right to their invention, particularly when it is beneficial to the people and contributes to national development and progress. Limiting the tax exemption privilege only to the original inventor does not contradict the furtherance of this policy.[4]

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[1] DOF Opinion No. 18-2019 dated December 18, 2019.

[2] Splash Corporation v. Commissioner of Internal Revenue, C.T.A. Case No. 8483, April 6, 2017 citing the Congressional records wherein it is discussed that when Representative Mario S. Ty was asked during deliberation with respect to the tax incentives provision of House Bill No. 24801, which later became RA No. 7459, he was clear and categorical in saying that the tax incentives pertain exclusively to the original inventor.

[3] DOF Opinion No. 18-2019 dated December 18, 2019.

[4] *Ibid.*

It is important to note also that the Final Resolution of the Office of the President (OP), in OP Case No. 03-G-422 dated February 2, 2004, affirming the finding of the Department of Finance denying the appeal of an inventor relative to his tax exemption privileges granted by this office, clarifies that the tax exemption granted by the first paragraph of Section 6 of RA No. 7459 refers to income tax only.

In effect, the aforementioned inventors are still subject to the following taxes:

1. 20% final withholding taxes on interest from currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements and 15%[5] final withholding tax on interest from foreign currency deposit;

2. Capital gains tax on sale of shares of stock prescribed under Section 24 (C) of the National Internal Revenue Code of 1997 (Tax Code), as amended;

3. Capital gains tax on sale of real property prescribed under Section 24 (D) of the Tax Code, as amended;

4. Income tax on revenues not arising from the inventor's registered invention such as interest, royalties, prizes, winnings and dividends;

5. Value-added tax (VAT) on the gross receipts/revenues derived from the sale of the said invention products, and also VAT for which the inventor is not directly liable, e.g., VAT on his purchases of raw materials, supplies and equipment/machinery, which may be shifted to him as part of the cost of goods sold or for services rendered; and

6. Other percentage taxes under Title V of the Tax Code, as amended;

7. Excise taxes directly payable in connection with the sale of invention products; and

8. Documentary stamp tax on documents, instruments and papers.

Furthermore, as inventor, you shall register with the proper Revenue District Office of the Bureau of Internal Revenue as a withholding agent and as such shall withhold taxes (1) on wages/salaries of their employees; and (2) on their income payments to individuals or corporations subject to the expanded withholding tax provided for in Section 57 (B) of the Tax Code, as amended.

Finally, you shall prepare and file in triplicate on or before April 15 of each year for the preceding calendar year, or if you have designated a fiscal year, an Annual Information Return with the Revenue District Officer having jurisdiction over your place of business.

[5] Increased from 7-1/2% to 15% as amended by TRAIN Law.

It is, of course, understood that your books of accounts and other pertinent records shall be subject to periodic examination by our Revenue Enforcement Officers for purposes of ascertaining whether you have been complying with the conditions under which you have been granted tax exemption or tax incentives and your tax liability, if any, pursuant to Section 235 of the Tax Code, as amended.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be ascertained that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue
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