REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Republic Act (RA) No. 7459; Revenue Regulations (RR) No. 19-1993
BIR Ruling No. 505-2019
[illegible]
[illegible]

JACOUELINE FOZ

Madam:

This refers to your request for tax exemption pursuant to Republic Act (RA) No. 7459, otherwise known as the *"Inventors and Inventions Incentives Act of the Philippines."*

As represented, you are a bonafide member of the Filipino Investors Society, Inc. (FIS), a national organization dedicated to the promotion of research and inventions; that you are the registered patent holder of the following product:

Title	US Patent No.	PH Patent No.	Date of First Sale
Social Media Live Electronic Governance and Agile Advisory for Five Pattern Goals Achievement Process	62/332,942	Ref No. 1/28/2019, Volume 22, No. 11 Document 2019-3932 Bureau of Patents	January 2016

and that the above-mentioned invention is being produced abroad and distributed from imported production in commercial scale by (1) The Covenant Car Company, Inc., the Philippine Distributor of Chevrolet Cars and (2) Toyota Motor Philippines.

In reply, please be informed that Section 6 of R.A. 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."* (Emphasis and underscoring supplied)

The said exemption can be availed of by the inventor during the first ten (10) years from the date of the first sale on a commercial sale provided that the FIS certifies that the invention is new and original, and the technology is newly developed by local researchers or adopted locally from foreign sources and that the invention is eligible for the tax incentives pursuant to a Confirmation Certificate issued by the FIS. Also, said exemption privileges pertaining to the invention shall be extended to the legal heir or assignee upon the death of the inventor.

In other words, the tax exemption under the aforesaid Section is for the inventor only, in this case, you, and not for any other entity that commercially produces and distributes the invented product.[1] Hence, any income received by The Covenant Car Company, Inc. and Toyota Motor Philippines, from such production/distribution/marketing is subject to the payment of appropriate taxes.

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 The Covenant Car Company, Inc. and Toyota Motor Philippines.

In light of these circumstances, it must be read that the purpose 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]

Furthermore, it is important also to note 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 (DOF) 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 only to income tax.

In effect, you may still be 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 fifteen percent (15%)[5] final withholding tax on interest from foreign currency deposit;

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[1] BIR Ruling No. 505-2019 dated September 09, 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. 018-2019 dated December 18, 2019.

[4] *Ibid*

[5] RA No. 10963 increased the tax rate from 7.5% to 15% effective January 01, 2018.

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

3. Capital gains tax on sale of real property prescribed under Section 24 (D) of the Tax Code of 1997, as amended;

4. Income tax on income not arising from the inventor's productive activity 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 of 1997, 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.

Additionally, you are required to register with the proper Revenue District Officer as a withholding agent and as such shall withhold taxes (1) on wages/salaries of your employees; and (2) on income payments to individuals or corporations subject to the expanded withholding tax provided for in Section 57 (B) of the Tax Code of 1997, as amended.

Finally, you are required to prepare and file in triplicate on or before April 15 of each year for the preceding calendar year an Annual Information Return with the Revenue District Officer having jurisdiction over your place of business.

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 of 1997, as amended.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation it will be disclosed 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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Copy furnished:

JAIME LLAGUNO MABILIN
Director IV
Presidential Complaint Center
Malacañang, Manila
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