REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Republic Act No. 7459; RR 19-93
BIR Ruling No. 226-2014
#267-2017

6-5-2017

FORMING ACCESS & SUPPORT, INC.
DMCI Complex, Levi Mariano Avenue
C-5 Highway, Brgy. Ususan
Taguig City

Attention: **Mr. Frederick V. Erum**
President

Gentlemen:

This refers to your letter dated October 15, 2014 requesting for tax exemption under Republic Act (R.A.) No. 7459, otherwise known as, the "Inventors and Inventions Incentives Act of the Philippines", for the invention described below, to wit:

Invention	Registration No.	Date Issued	Date of First Sale
Method of Concrete Building Construction Using Re-Usable Easy-To-Install Formworks		August 10, 2012	May 19, 2014

Documents submitted show that **Mr. Frederick V. Erum** ("**Mr. Erum**"), is a bonafide inventor and an accredited member of the Filipino Inventors Society, Inc. ("FIS"), per Certification dated January 31, 2013; that the above-described patented invention is being commercially produced and distributed by **Forming Access & Support, Inc.** (TIN:), a domestic corporation registered with the Securities and Exchange Commission (SEC) under SEC Registration No. ; that said invention is eligible for the tax incentives under R.A. No. 7459 per Certification dated January 31, 2013 issued by the FIS and confirmed by the Screening Committee in its Confirmation Certificate dated September 22, 2014; and that the above-described invention is new and original, and the technology is newly developed from local researches, as confirmed by the Screening Committee and the FIS.

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

W.

#267-2017
6-5-2017

researchers or adapted locally from foreign sources including inventions. any income derived from this 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."

The said exemption can be availed of by inventor, **Mr. Erum**, during the first ten (10) years from the date of the first sale on a commercial scale which is on May 19, 2014, provided that said exemption privileges pertaining to the invention shall be extended to the legal heir or assignee upon the death of the inventor. (*BIR Ruling No. 226-2014* dated June 25, 2014)

It is understood that the tax incentive/exemption under R.A. No. 7459, as implemented by Revenue Regulations (RR) No. 19-93, is for the inventor, **Mr. Erum**, and not for the company or entity that produced/distributed and/or marketed the invention. Hence, any income received by **Forming Access & Support, Inc.** from such production/distribution/marketing is subject to the payment of appropriate taxes. (*BIR Ruling No. 226-2014* dated June 25, 2014)

It is important to note that the Final Resolution of the Office of the President (OP), in OP Case No. 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 7459 refers only to income tax.

In effect, **Mr. Erum** is 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 7 1/2 % 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 Tax Code of 1997;
3. Capital gains tax on sale of real property prescribed under Section 24(D) of the Tax Code of 1997;
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; and

7. Excise taxes directly payable in connection with the sale of invention products; and
8. Documentary stamp tax on documents, instruments and papers.

Moreover, **Mr. Erum,** shall register with the proper Revenue District Officer as a withholding agent and as such shall withhold taxes (1) on wages/salaries of employees; and (2) on income payments to individuals or corporations subject to the expanded withholding tax at source, as required under Chapter XIII and Section 57 of the Tax Code of 1997, as amended, and implemented by *Revenue Regulations (RR) No. 2-98*, as amended.

Finally, **Mr. Erum** shall 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 his place of business.

It is, of course, understood that **Mr. Erum's** books of accounts and other pertinent records shall be subject to periodic examination by the revenue enforcement officers for purposes of ascertaining whether he has been complying with the conditions under which he has been granted tax exemption or tax incentives and his tax liability, if any, pursuant to Section 235 of the Tax Code of 1997.

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

K-1-JHB

006933