REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

R.A. 9178;
BIR Ruling No. 207-2011
BIR RULING NO. 029-12
OT-0370-2020

JUL 03 2020

EMIGART TRADING INCORPORATED
Chapter 9, Tienda Aplaya
Digos City, Davao del Sur

Attention: **Atty. Margarito D. Montecillo, CPA**
President

Gentlemen:

This refers to your letter dated April 27, 2018, received by this Office on July 19, 2018, requesting for certificate of exemption from the payment of income tax pursuant to the provisions of Republic Act (RA) No. 9178, otherwise known as "Barangay Micro Business Enterprises (BMBEs) Act of 2002".

It is represented that EMIGART TRADING INCORPORATED, with Tax Identification Number (TIN) was awarded a BMBE Certificate of Authority on March 13, 2018, bearing BMBE Registration No. , valid for a period of two (2) years or until March 13, 2020.

In reply, please be informed that Sections 3 (a) and 7 of R.A. 9178 provide, viz.:

> *"SEC. 3. Definition of Terms. — As used in the Act, the following terms shall mean:*
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> *(a) "Barangay Micro Business Enterprise", hereinafter referred to as BMBE, refers to any business entity or enterprise engaged in the production, processing or manufacturing of products or commodities, including agro-processing, trading and services, whose total asset including those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, shall not be more than Three Million Pesos (P3,000,000.00). The definition shall be subject to review and upward adjustment by the SMED Council, as mandated under Republic Act No. 6977, as amended by Republic Act No. 8289.*
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> xxx xxx xxx
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> *"SEC. 7. Exemption from Taxes and Fees. — All BMBEs shall be exempt from income tax for income arising from the operations of the enterprise.*

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The LGUs are encouraged either to reduce the amount of local taxes, fees and charges imposed or to exempt the BMBEs from local taxes, fees and charges."

Inasmuch as EMIGART TRADING INCORPORATED was awarded BMBE Certificate of Authority by the Department of Trade and Industry (DTI), it is therefore exempt from the payment of income tax for income arising purely from the operations as such BMBE for a period of two (2) years from March 13, 2018 or until March 13, 2020 (BIR Ruling No. 207-2011 dated July 1, 2011). EMIGART TRADING INCORPORATED must register as such BMBE with the Revenue District Office (RDO) where its principal place of business is located for the purpose of availing the tax incentives. It is understood, however, that the availment of the foregoing tax exemption is subject to the compliance with the provisions of Sections 1, 2 and 3 of Rule 3 of the Department of Finance Order No. 17-04, to wit:

"Sec. 1. Exemption from Income Tax. — A duly registered BMBE shall be exempt from income tax on income arising purely from its operations as such BMBE: Provided, that this income tax exemption shall not apply to the following:

a. Interest, including those from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements;
b. Royalties;
c. Prizes and other winnings;
d. Cash and/or property dividends;
e. Capital gains from the sale of shares of stock not traded through the stock exchange;
f. Capital gains from the sale or other disposition of real property;
g. The share of an individual in the net income after tax of an association, a joint account, or a joint venture or consortium;
h. The share of an individual in the distributable net income after tax of a taxable partnership of which he is a partner;
i. Income from the practice of profession received directly from the clients or from the professional partnership of which the individual is a partner;
j. Compensation; and
k. All other forms of passive income and income from revenues not effectively connected with or arising from operations of the BMBEs as such.

Sec. 2. Determination of the Value of Assets of the BMBE for Income Tax Exemption Purposes. — For the purpose of exemption from income tax, the total assets of the BMBE, which shall not exceed Three Million Pesos (P3,000,000.00), shall include all kinds of properties, both personal properties and real properties (but excluding land on which the particular business entity's office, plant and equipment are situated) that are owned and used/to be used, or even if not owned but used/to be used, by the BMBE and/or its affiliates for the conduct of its/their business/es: Provided, That the term "affiliate" shall refer to any person or business enterprise/entity that, directly or indirectly through one of more intermediaries, controls or is controlled by, or is under common control with, the BMBE concerned. The rules provided in Sec. 36 (B)

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of the National Internal Revenue Code shall be used in determining whether such affiliation exists, and the rules prescribed in Sec. 127 (B) of the same Code for stock attribution shall be used in determining beneficial ownership of an incorporated enterprise: Provided, further, That the value of the assets of the BMBE for the purpose of this Section shall be determined in accordance with the valuation rules set forth in Rule 2, Sec. 2 hereof.

Sec. 3. Availment of Tax Incentives. — For purposes of availing of the tax incentives, the BMBE shall register as such BMBE with the BIR RDO where the principal office or place of business of the BMBE is located. Its application for registration shall be supported by the following documents:

a. Copy of the BMBE's Certificate of Authority duly authenticated by the Office of the City or Municipal Treasurer;

b. Sworn Statement of the values of assets owned and/or used/to be used by the BMBE and/or its affiliates reflecting the current values thereof. The Sworn Statement shall be supported by pertinent information and documents such as:

i. Acquisition cost, date of acquisition and depreciated value for existing assets;

i. * Invoices and/or official receipts for newly-acquired assets not yet depreciated;

ii. Duly-notarized copy of Contract of Lease for assets used in the conduct of business covered by lease agreement; and

iii. Copy of Loan Contract/s, if any, and Duly-Notarized Certification of Amortization Payments on the Loan.

c. Certified list of branches, sales outlets, places of production, warehouse and storage places, or such other facility owned and/or operated by the BMBE indicating their respective addresses, whether located in the same municipality or city where the principal place of business is located, or elsewhere;

d. Certified list of affiliates, indicating addresses, line of business and responsible officers thereof;

e. Latest Audited Financial Statement, or Account Information Form or its equivalent containing data lifted from audited financial statements.

If the BMBE is currently registered with the BIR under or pursuant to existing registration rules and regulations, its registration as a BMBE shall be duly recorded by the BIR in the pertinent registration file of the BMBE, and its registration certificate be accordingly amended to reflect its registration likewise as a BMBE. If the BMBE has not been registered under or pursuant to existing registration, the BMBE shall register for each type of internal revenue tax, except income tax, but including withholding taxes for which it is liable.

For purposes of exemption from the creditable withholding tax on income payments, the BMBE shall furnish its customers with a certified true copy of its amended BIR registration certificate.

If a BMBE is also entitled to exemption from income tax under any law other than the Act, it shall so state this fact in its registration form and indicate

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whether it shall avail itself thereof or the privilege under the Act. The choice so made shall bind the BMBE for the entire period of validity of its registration with the BIR. No BMBE shall be allowed double or multiple availment of income tax exemption privileges.

An annual registration fee in the amount of Five Hundred Pesos (P500.00) shall be paid by a BMBE upon its registration as such, and every year thereafter on or before the last day of January: Provided, however, that a BMBE which is in the form of a cooperative or a marginal income earner as defined in Revenue Regulations No. 11-2000 shall be exempt from payment of this registration fee.

The registration fee shall be paid to an authorized agent bank (AAB) located within the revenue district or, in places where there are no AABs, to the Revenue Collection Officer (RCO), or duly authorized Treasurer of the City or Municipality where the principal place of business is registered.

Finally, EMIGART TRADING INCORPORATED is required to file on or before the 15th day of the fourth month following the end of the accounting period an Annual Information Return, together with an Account Information Form, or its equivalent, containing data lifted from audited financial statements and a sworn statement of assets owned and/or used in business. *(Sec. 4, rule 3, D.O. No. 17-04)*

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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