August 6, 2018

BIR RULING NO. 1125-18

Republic Act (RA) No. 7459; Revenue Regulations (RR) No. 19-1993; BIR Ruling No. 011-2016; BIR Ruling No. 190-2015

AAA

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Sir :

This refers to your letter dated August 15, 2017, requesting for tax exemption pursuant to Republic Act (RA) No. 7459, otherwise known as the "*Inventors and Inventions Incentives Act of the Philippines*."

Documents submitted disclosed that AAA is the registered patent holder of the following product:

Utility Model	Patent No.	Date Issued	Date of First Sale
Spray Mist Dispensing Apparatus	UN 2-2015-000023	November 02, 2015	September 19, 2016

that AAA is an accredited member of the Filipino Inventors Society Producer Cooperative (FISPC); that the above-mentioned patented invention is being solely and exclusively produced, distributed, and marketed commercially by AAA under the trademark Filgenius Enterprise and A 1sttechno Co., Inc. and under the brand name Misty Kool Fan; that FISPC certified that the above-mentioned invention is new and original, and the technology is newly developed by local researchers; and that the Screening Committee has evaluated and recommended that the above-mentioned patented invention is eligible for the tax incentives pursuant to Resolution No. 2017-006 dated June 29, 2017.

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

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"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."

The said exemption under RA No. 7459 can be availed of by the inventor during the first ten (10) years from the date of the first sale on a commercial scale provided that 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, in this case, you, as a sole proprietor doing business under the name of Filgenius Enterprise, and not for any other entity that commercially produces and distributes the invented product. [1] Hence, any income received by A 1sttechno Co., Inc., from such production/distribution/marketing is subject to the payment of appropriate taxes. [2]

It is important 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 denying the appeal of an inventor relative to his tax exemption privileges granted by this Office, clarifies that the only tax exemption granted by the first paragraph of Section 6 of RA No. 7459 merely refers to income tax.

In effect, you 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% [3] 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, as amended;

3. Capital gains tax on sale of real property prescribed under Section 24 (D) of the National Internal Revenue 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;

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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 National Internal Revenue 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.

Moreover, you shall 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 National Internal Revenue Code of 1997, as amended.

Finally, you 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 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 National Internal Revenue 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,

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

Footnotes

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1. BIR Ruling No. 011-2016 dated January 08, 2016.
2. BIR Ruling No. 190-2015 dated June 10, 2015.
3. RA No. 10963 increased the tax rate from 7.5% to 15% effective January 01, 2018.

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