August 30, 2018

BIR RULING NO. 1138-18

RA 7459; RR 19-93

Filipino Inventors Society
10 Sct. Borromeo St. and Mo. Ignacia Ave.
So. Triangle, Quezon City

Attention: *AAA*

Gentlemen :

This refers to your letter dated May 10, 2012 duly indorsed by the Revenue Operations and Legal Affairs Group of the Department of Finance, requesting on behalf of Inventor BBB, for reconsideration of the Ruling No. DA (OSL-011) 316-2008 dated October 17, 2008.

It is represented that BIR Ruling No. DA (OSL-011) 316-2008 dated October 17, 2008 was issued to Inventor BBB on the tax exemption under Republic Act (R.A.) No. 7459 or the Inventors and Inventions Incentives Act of the Philippines. The pertinent portion of the said ruling is quoted as follows:

> *"In reply, please be informed that R.A. 7459, as implemented by Revenue Regulations No. 19-93 dated July 27, 1993, particularly Section 6 thereof states that:*
>
> *"SEC. 6. Tax Exemption. — To promote, encourage, develop and accelerate commercialization of technologies developed by local researchers or adopted 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: . . . " (italics supplied)*
>
> *However, the inventor is 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% final withholding tax on interest from foreign*

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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;

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

The said exemption can be availed of 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.

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 R.A. 7459 merely refers to income tax.

Moreover, the inventor shall register with the proper Revenue District Officer as a withholding agent and as such shall withhold taxes (1) on the wages/salaries of his employees; (2) on his income payments to individuals or corporations subject to the expanded withholding tax provided for in Section 57 (B) of the Tax Code of 1997; and (3) on government money payments pursuant to R.A. No. 1051, as implemented by Revenue Regulations No. 4-88, as amended by Revenue Regulations No. 10-93, and as last amended by Revenue Regulations No. 2-98.

Finally, the inventor 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

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Revenue District Officer having jurisdiction over his place of business.

It is of course understood, that his books of accounts and other pertinent records shall be subject to periodic examinations by our 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. (BIR Ruling No. 653-95 dated March 8, 1995)"

You now request for a reconsideration of the BIR's opinion stated in BIR Ruling No. DA (OSL-011) 316-2008 dated October 17, 2008 and the issuance of a ruling recognizing Inventor BBB's exemption from all kinds of taxes as mandated by law and carried out under Section 3 of the Revenue Regulations No. 19-93.

In reply, please be informed that Department Order No. 23-01 dated October 5, 2001, as implemented by BIR Revenue Administrative Order No. 03-01 dated October 22, 2001, provides that an appeal to the Office of the Deputy Commissioner of Internal Revenue for Legal and Inspection Group (DCIR-LIG) in the case of adverse rulings decided by the Assistant Commissioner for Legal Service must be filed **within fifteen (15) days from receipt** by the aggrieved party of the decision, resolution or order complained of or appealed from.

Inventor BBB has only 15 days from receipt of an adverse ruling decided by the Assistant Commissioner for Legal Service to appeal to the Office of the Deputy Commissioner of Internal Revenue for Legal and Inspection Group (DCIR-LIG), thus, it is clear that the instant request for reconsideration was belatedly filed, beyond the period provided under the rules for the filing of the same.

Accordingly, the instant request is hereby denied as the decision subject of this request had already become final and executory. It is settled that a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect. *(FGU Insurance Corp. vs. RTC Branch 66, Makati; G.R. No. 161282, February 23, 2011)*

Very truly yours,

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

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