November 7, 2018

BIR RULING NO. 1315-18

Section 34 (F) (1), (2) & (3), 1997 NIRC;
BIR Ruling No. 187-11

Baniqued Layug & Bello
8/F Jollibee Centre
San Miguel Avenue
Pasig City

Attention: *AAA*
and BBB

Gentlemen :

This refers to your letter dated June 29, 2017, stating that your client, **IBIDEN PHILIPPINES, INC. (Ibiden)**, is a domestic corporation located in the First Philippine Industrial Park, Sto. Tomas, Batangas; that it is registered as an Ecozone Export Enterprise engaged in the manufacture/assembly of in-circuit test fixture (ICT) and function checker test (FCT) fixtures and test peripherals, connectors and cables and components; that Ibiden currently adopts the straight-line and double declining depreciation of its fixed assets that are used in its manufacturing activities (Subject Assets), which classification and useful lives are initially recorded in its books, as follows:

Asset Classification	Current Useful Life	Depreciation Method
Other Utility Equipment (UPS Battery and Accessories)	15 years	Straight Line
Machinery & Equipment — Toolings (Checkerhead)	5 years	Double Declining Method

that recently, Ibiden's management conducted an assessment of the useful lives and depreciation methods of the Subject Assets based on experience as to actual wear and tear, frequency of replacement and/or maintenance, and assessment of its technical/maintenance staff; that the findings disclosed that it is necessary to change the useful lives of the Subject Assets to reflect the actual useful life as well as the actual wear and tear; that on June 27, 2011, the Board of Directors of Ibiden resolved to reduce the useful lives of the Subject Assets in accordance with the findings of management; and

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that the proposed change in useful lives of the Subject Assets shall take effect on April 1, 2017, subject to approval by the Commissioner of Internal Revenue, which are detailed as follows:

Asset Category	Current Useful Life	Proposed Useful Life
Other Utility Equipment (UPS Battery and Accessories)	15 years	7 years
Machinery & Equipment — Toolings (Checkerhead)	5 years	3 years

Based on the foregoing representations, you now request confirmation of Ibiden's proposed change in useful life of its assets, classified in its books as "Other Utility Equipment" and "Machinery & Equipment — Toolings," for tax and financial accounting purposes beginning April 1, 2017, pursuant to Section 34 (F) (3) of the Tax Code of 1997, as amended, in relation to Section 109 of Revenue Regulations No. 2.

In reply thereto, please be informed that Section 34 (F) (1) & (2) of the Tax Code of 1997 provides, *viz.*:

> "Section 34 (F)(1). — There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear (including reasonable allowance for obsolescence) of property used in the trade or business.
>
> xxx xxx xxx
>
> Section 34 (F)(2). — The term "reasonable allowance" as used in the preceding paragraph shall include, but not limited to, an allowance computed in accordance with rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, under any of the following methods:
>
> a) The straight-line method;
>
> b) Declining-balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in Subsection (F) (1);
>
> c) The sum-of-the-years-digit method; and
>
> d) Any other method which may be prescribed by the Secretary of Finance upon recommendation of the Commissioner."

Corollarily, Section 34 (F) (3), *supra*, provides that —

> "(3) Agreement as to Useful Life on which Depreciation Rate is Based. — Where under rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, the taxpayer and the Commissioner have entered into an agreement in writing specifically dealing with the useful life and rate

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of depreciation of any property, the rate so agreed upon shall be binding on both the taxpayer and the National Government in the absence of facts and circumstances not taken into consideration during the adoption of such agreement. The responsibility of establishing the existence of such facts and circumstances shall rest with the party initiating the modification. Any change in the agreed rate and useful life of the depreciable property as specified in the agreement shall not be effective for taxable years prior to the taxable year in which notice in writing by certified mail or registered mail is served by the party initiating such change to the other party to the agreement.

Provided, however, That where the taxpayer has adopted such useful life and depreciation rate for any depreciable asset and claimed the depreciation expenses as deduction from his gross income, without any written objection on the part of the Commissioner or his duly authorized representative, the aforesaid useful life and depreciation rate so adopted by the taxpayer for the aforesaid depreciable asset shall be considered binding for purposes of this Subsection."

Moreover, Section 105 of Revenue Regulations No. 2, otherwise known as the "Income Tax Regulations" reads —

"Section 105. *Depreciation*. — A reasonable allowance for the exhaustion, wear and tear, and obsolescence of property used in the trade or business may be deducted from gross income. For convenience, such an allowance will usually be referred to as depreciation, excluding from the term any idea of a mere reduction in market value not resulting from exhaustion, wear and tear, or obsolescence. The proper allowance for such depreciation of any property used in the trade or business is that amount which should be set aside for the taxable year in accordance with a reasonable consistent plan whereby the aggregate of the amount so set aside, plus the salvage value, will, at the end of the useful life of the property in business, equal the basis of the property. Due regard must also be given to expenditures for current upkeep."

Furthermore, Section 109 of said Regulations No. 2 likewise reads —

"Section 109. *Method of computing depreciation allowance*. — The capital sum to be replaced should be charged off over the useful life of the property, either in equal annual installments or in accordance with any other recognized trade practice, such as an apportionment of the capital sum over units of production. Whatever plan or method of apportionment is adopted must be reasonable and must have due regard to operating conditions during the taxable period. While the burden of proof must rest upon the taxpayer to sustain the deductions taken by him, such deductions must not be disallowed unless shown by clear and convincing evidence to be unreasonable. The reasonableness of any claim for depreciation shall be determined upon the conditions known to exist at the end of the period for which the return is made. If it develops that the useful life of the property will be longer or shorter than useful life as originally estimated under all the then known facts, the portion of the cost or other basis of the property not already provided for through depreciation allowances should be spread over the remaining useful life of the property as re-estimated in the light of the subsequent facts, and depreciation

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deductions taken accordingly."

Based on the foregoing, the taxpayer and the Commissioner may agree on the estimated useful life and rate of depreciation of any property. The rate so agreed upon shall be binding on both the taxpayer and the BIR. However, if it develops that the useful life of the property originally estimated under previous factual conditions is no longer reasonable, the law allows the taxpayer to lengthen or shorten the useful life of the property in the light of prevailing factual considerations. *(BIR Ruling No. 187-11 dated June 23, 2011)*

WHEREFORE, in view of the assessment of the useful lives and depreciation methods of the Subject Assets based on experience as to its actual wear and tear including the frequency of its replacement and/or maintenance, this Office hereby CONFIRMS your opinion that Ibiden may adopt change in the useful life of its Subject Assets for both tax and financial accounting purposes as basis of Ibiden's depreciation expense.

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

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