November 15, 2018

BIR RULING NO. 1322-18

RA 7459; RR 19-93; BIR Ruling No. 473-13

INCA Philippines, Inc.
Bldg. #4 Philcrest Compound,
Km 23 West Service Rd.,
Brgy. Cupang, Muntinlupa City

Attention: *AAA*

Gentlemen :

This refers to the letter of Filipino Inventors Society dated August 27, 2009, requesting on behalf of **AAA**, for tax exemption under R.A. No. 7459, otherwise known as the Inventors and Inventions Incentives Act of the Philippines, to wit:

Records show that Inventor AAA is the registered patent holder of the following products:

INDUSTRIAL DESIGN	REGISTRATION NO.	DATE ISSUED	DATE OF FIRST SALE
1. Plastic Litter Picker	3-2008-000530	Dec. 15, 2008	June 20, 2008
2. Plastic Double Cavity Stanchion	3-2005-000906	Nov. 28, 2006	September 14, 2005
3. Plastic Rolling Trash Container	3-2005-000908	Nov. 28, 2006	September 14, 2005

that AAA is an accredited member of the Filipino Inventors Society; that the above-mentioned patented inventions are being commercially produced and distributed by **INCA PHILIPPINES, INC.** located at Bldg. #4 Philcrest Cpd., Km 23 West Service Rd., Brgy. Cupang, Muntinlupa City; and that the Screening Committee for R.A. No. 7459 has evaluated and recommended that the above-mentioned patented inventions are eligible for the tax incentives pursuant to Resolution No. 2011-006 dated November 8, 2011.

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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 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 can be availed of by the inventor, AAA, during the first ten (10) years from the date of the first sale on a commercial scale, which is indicated above opposite each product invented, 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. 473-13 dated December 18, 2013)

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, AAA, and not for the company or entity that produced/distributed and/or marketed the invention. Hence, any income received by the company, INCA Phils., Inc., from such production/distribution/marketing is subject to the payment of appropriate taxes.

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 7459 merely refers to income tax.

In effect, AAA 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% 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 Tax Code of 1997;

3. Capital gains tax on sale of real property prescribed under Section 24 (D)

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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;

7. Excise taxes directly payable in connection with the sale of invention products; and

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

Moreover, AAA shall register with the proper Revenue District Officer as a withholding agent and as such shall withhold taxes (1) on wages/salaries of his employees; and (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.

Finally, AAA 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 AAA's books of accounts and other pertinent records shall be subject to periodic examination 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.

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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