August 29, 2019

BIR RULING NO. 459-19

RA 7459; RR 19-93; BIR Ruling No. 011-16;
BIR Ruling No. 328-12

AAA

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Dear AAA :

This refers to the letter, with attachments, submitted by the Filipino Inventors Society dated June 8, 2017, endorsing your application for tax exemption, as a registered inventor of patented product, under Republic Act (RA) No. 7459, otherwise known as the "Inventors and Inventions Incentives Act of the Philippines."

Records show that you are an accredited member of the Filipino Inventors Society (FIS) and a registered patent holder of the following product:

Utility Model	Patent No.	Date Issued	Date of First Sale
Herbal Massage Oil	UM-2-2011-000461	May 21, 2012	January 2014

The above-mentioned patented invention is being commercially produced, distributed and marketed exclusively under the brand name BDO HERBOSIDO OIL by BDO HERBOSIDO HERBAL PRODUCTS, a single proprietorship you own, located at _____.

The Technology Application and Promotion Institute (TAPI) Screening Committee has evaluated and recommended that the above-mentioned patented invention is eligible for the tax incentives pursuant to Resolution No. 2017-002 dated March 23, 2017.

In support of your application for tax exemption, you submitted the following:

1. DOST TAPI Confirmation Certificate No. 2017-002 dated March 23,

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2017;

2. TAPI Screening Committee Resolution No. 2017-002 dated March 23, 2017;

3. Bureau of Patents Intellectual Property Registration No. 2-2011-000461;

4. Certification you issued on December 29, 2016 regarding the Date of First Sale;

5. FIS Certification of Membership of Inventor and Endorsement of Invention for Tax Exemption under RA 7459;

6. FIS Certificate of Membership as an Inventrepreneur Regular member dated January 3, 2017;

7. BIR Certificate of Registration No. 3RC0000481468 dated April 3, 2008;

8. DTI Certificate of Business Name Registration No. 02146628 dated August 16, 2013; and

9. Other supporting documents.

In reply, please be informed that Section 6 of RA 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."*

You can avail of said exemption during the first ten (10) years from the date of the first sale on a commercial scale, provided that this exemption/privilege pertaining to the invention shall be extended to your legal heir or assignee upon your death. This exemption does not extend to any other entity that commercially produces and distributes your invented product. (BIR Ruling No. 328-12 dated May 11, 2012)

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

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Finance denying the appeal of an inventor relative to his tax exemption privileges granted by this office, clarifies that the tax exemption granted by the first paragraph of Section 6 of RA 7459 refers to income tax only.

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% [1] 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, as amended (Tax Code);

3. Capital gains tax on sale of real property prescribed under section 24 (D) of the Tax Code;

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, 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 your income payments to individuals or corporations subject to the expanded withholding tax provided for in Section 57 (B) of the Tax Code.

Finally, you shall prepare and file in triplicate on or before April 15 of each year for the preceding calendar year, or if you have designated a fiscal 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

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Section 235 of the Tax Code.

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,

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

Footnotes

1. Republic Act No. 10963 increased the tax rate from 7.5% to 15% effective January 1, 2018.

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