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TAX LAW FOR BUSINESS

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Tax incentives of Filipino Inventions

Filipinos are arguably the most creative and innovative people in the world. Despite very limited resources and support from the government, Filipino ingenuity always finds a way to excel. The Filipinos' diverse and, sometimes, harsh experiences give them a fresh and unique perspective to fill in the needs of their fellowmen through inventions and technologies that can change lives and even the world. Most of these inventions are part of our everyday lives.

Are you aware that the medical incubator was invented by a Filipino? Her name is Fe del Mundo. The medical incubator has saved countless of premature infants all around the world. Erythromycin was invented by Dr. Abelardo Aguilar. This medicine has continuously saved millions of lives who are allergic to penicillin. The video phone, which is the precursor of the smart phones that we have today, was invented by Gregorio Zara. Many types of computer microchips were invented by Diosdado Banatao. Without his invention, you would be looking at your computer filled with ones and zeroes and not the artistic graphics that you see today. Dr. Rodolfo Aquino invented nine specific breeds of rice for the International Rice Research

Institute. His discoveries helped prevent famine in many parts of Asia, because these rice breeds can adapt to diverse climate and soil conditions.

Many Filipino inventors have no financial capacity to commercially produce their inventions. In line with this, the government provides incentives to inventors. One incentive is found in Section 6 of Republic Act (RA) 7459, on Inventors and Invention Incentives Act of the Philippines, which states that any income derived from the commercialization of technologies and inventions are exempt from all kinds of taxes, during the first 10 years from date of first sale, without any qualification.

The Commissioner of Internal Revenue, unfortunately, has issued many rulings interpreting this incentive as limited to income derived by the inventor from the sale made personally by him. In other words, the inventor of the incubator should commercially produce and sell these incubators by himself. He cannot create a sole proprietorship because it will have a different company name. He cannot create a corporation to massively produce his inventions and commercialize them in a large scale, nor partner with someone who has the capacity to fund the commercialization of the invention. For many years, this has dampened the resolve of the inventors, because they are being deprived of the incentives that are clearly given to them by law. Worse, the country does not benefit from new Filipino inventions because the cost of commercialization is defined by the commissioner as a burden that the inventor must solely bear. If the commercialization of the invention is done through another vehicle, a sole proprietorship, partnership, or corporation, the tax-exemption incentive is lost.

After a long wait, the Court of Tax Appeals (CTA) recently released a landmark decision where it ruled that what RA 7459 exempts is the income derived from the sale of the invention. Thus, any income derived by an entity or a person from the sale of the patented Filipino products shall be exempt from the payment of income tax. The court emphasized that the law exempts any income on the sale of the Filipino invention, regardless of how and who sold the same.

In order to develop an invention into a technology, one must have the financial capability to do so, as this requires a large amount of capital. Thus, the inventor may opt to establish a corporation, which will enable him to obtain the required capital to develop such technology.

The intent of the law is to “promote, encourage, develop and accelerate commercialization of technologies developed by local researchers or adapted locally from foreign sources, including inventions.” Since the intention of the law is now justified by the recent CTA decision, hopefully, the new breeds of Filipino inventors will be encouraged to fully utilize their potential. Any income they derive from the commercialization of their invention, by any vehicle, is exempt from income tax.

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