

**[ BIR REVENUE REGULATIONS NO. 1-95, January 24, 1995 ]**

**RULES AND REGULATIONS TO IMPLEMENT THE TAX INCENTIVES PROVISIONS UNDER PARAGRAPHS (B) & (C) OF SECTION 12, REPUBLIC ACT NO. 7227 OTHERWISE KNOWN AS THE BASES CONVERSION AND DEVELOPMENT ACT OF 1992**

*SECTION 1. Scope* — Pursuant to the provisions of Section 245 of the National Internal Revenue Code, in relation to Sections 5(m) and 13(b)(11) of Republic Act No. 7227, these regulations are hereby promulgated to implement the tax incentives provided for under paragraphs (b) and (c), Section 12 of said Act.

*SECTION 2. Declaration of Policy* — Within the framework and subject to the mandate of the Constitution and the pertinent provisions of the Local Government Code of 1991, it is hereby declared the policy of the State to develop the Subic Special Economic Zone into a self-sustaining, industrial, commercial, financial and investment center to generate employment opportunities in and around the Zone, and to attract and promote productive foreign investments.

*SECTION 3. Definitions* — For purposes of these Regulations, the terms used herein shall be construed to have the following meanings:

a. **Act**— refers to RA 7227 otherwise known as the Bases Conversion and Development Act of 1992.

b. **SBMA** — refers to the Subic Bay Metropolitan Authority, established and created pursuant to Section 13 of the Act.

c. **Zone** — refers to the Subic Special Economic and Freeport Zone (SSEFZ), outside the Customs Territory and the authority of the customs laws, consisting of the City of Olongapo and the municipality of Subic, Province of Zambales, the lands occupied by the Subic Bay Naval Base and its contiguous extensions, embraced, covered, and defined by the 1947 Philippine U.S. Military Base Agreement, whose metes and bounds shall be delineated in a Proclamation to be issued by the President of the Republic of the Philippines, (or any portion of the foregoing designated by the Subic Bay Metropolitan Authority as an area to which duty and tax-free benefits are limited pending the establishment of a secured perimeter around the entire Zone.)

d. **Secured Area** — refers to the presently fenced-in former Subic Naval Base which shall be the only completely tax and duty-free area in the Zone and within which there shall be a free and unimpeded flow of goods and merchandise from one registered enterprise to another or to residents and along the boundaries of the area shall be set up a Customs checkpoint through which goods authorized to leave or enter the Secured Area for some destination inside or outside the Zone must pass. The boundaries of the secured area may be readjusted from time to time jointly by

the SBMA and the Department of Finance as the requirements of the business in the Zone may demand or permit.

e. **Customs** — means the Philippine Bureau of Customs

f. **Customs Territory** — refers to the portion of the Republic of the Philippines where the customs laws are in force and effect, which is separate from the Zone.

g. **Articles** — refers to any goods, wares, merchandise and in general, anything that may, under the Tariff and Customs Code of the Philippines, as amended, be made the subject of importation or exportation.

h. **Domestic Articles** — refers to articles which are the growth, product, or manufacture of the Philippines on which all national internal revenue taxes have been paid, if subject thereto, and upon which no drawback or bounty has been allowed; and articles of foreign origin on which all duties and taxes have been paid and upon which no drawback or bounty has been allowed, or which have previously been entered into Customs Territory free of duties or taxes.

i. **Foreign Articles** — refers to articles of foreign origin on which duties and taxes have not been paid, or if paid, upon which drawback or a bounty has been allowed, or which have not previously been entered into Customs Territory; or articles which are the growth, product, or manufacture of the Philippines on which not all national internal revenue taxes have been paid, if subject thereto, or if paid, upon which drawback or a bounty has been allowed.

j. **Resident** — refers to any individual who is registered and authorized by the SBMA to establish and maintain a personal residence in the Secured Area of the Zone.

k. **Registered Enterprise** — refers to any corporation registered with the SBMA to do business in the Secured Area of the Zone.

l. **Transshipment** — refers to transshipment of articles discharged at ports or airports of entry located in Customs territory destined for delivery to the Zone, and articles coming from the latter intended for export thru a Philippine Customs port/airport of entry may be transported under bond, upon examination, and consigned to the Collector at the port of destination/export who will allow the consignor or consignee, as the case may be, to make entry for exportation.

m. **Retail Sale** — refers to the sale of articles in the Secured Area of the Zone, in small quantities to an individual for his or her own personal use and account and not for resale.

n. **Foreign Exchange** — shall mean any currency other than the Philippine Peso acceptable for international reserve or authorized for international transaction by the Central Bank of the Philippines.

o. **Gross Income Earned** — refers to gross sales or gross revenues derived from the business activity within the zone, net of sales discounts and sales returns and allowances and minus costs of sales or direct costs but before any deduction for administrative expenses or incidental losses during a given taxable period. For financial enterprises, gross income shall include interest income, gains from sales, and other income, net of allowable deductions. The following deductions shall be allowable for the calculation of gross income earned for specific types of enterprises:

## 1. Trading and manufacturing enterprises

Direct salaries,  
wages or labor  
expenses  
Production  
supervision salaries  
Raw materials used  
in the manufacture of  
products  
Goods in process  
(Intermediate goods)  
Finished goods  
Supplies and fuels  
used in production  
Depreciation of  
machineries and  
equipment used in  
production, and  
buildings owned  
and/or constructed  
by SBMA-registered  
enterprise  
Rent and utility  
charges associated  
with building,  
equipment and  
warehouses, or  
handling of goods  
Financing charges  
associated with fixed  
assets

## 2. Service enterprises

Direct salaries,  
wages or labor  
expense  
Service supervision  
salaries  
Direct materials,  
supplies used or  
resold to  
another SBMA  
registered  
enterprise  
Depreciation of  
machineries,  
equipment  
and buildings  
owned and/or  
constructed

Financing charges  
associated with fixed  
Assets  
Rent and utility  
charges for buildings  
and  
capital equipment

### 3. Financial Institutions

Depreciation  
Financing Charges  
associated with  
fixed assets  
Rent and utility  
charges

#### *SECTION 4. Exemptions and Incentives—*

A. All SBMA registered enterprises doing business within the Secured Area in the Zone shall enjoy the following:

a. Exemption from customs and import duties and national internal revenue taxes on importations of raw materials for manufacture into finished products and capital goods and equipment needed for their business operation within the Secured Area. Consumption items, however, must be consumed within the Secured Area. Removal of raw materials, capital goods, equipment and consumer items out of the Secured Area for sale to non-SBMA registered enterprises shall be subject to the usual taxes and duties, except as may be provided herein:

a.1 Residents of the ZONE living outside the Secured Area can enter the Secured Area and consume any quantity of consumption items in hotels and restaurants within the Secured Areas. However, these residents can purchase and bring out of the Secured Area to other parts of Philippine territory tax and duty free, consumer items worth not exceeding *US\$100 per month per person*. Only residents age 15 and over are entitled to this privilege.

a.2 Filipinos not residing within the ZONE can enter the Secured Area and consume any quantity of consumption items in hotels and restaurants within the Secured Area. However, they can purchase and bring out of the Secured Area to other parts of the Philippine territory tax and duty free consumer items worth not exceeding *US\$200 per year per person*. Only Filipinos age 15 and over are entitled to this privilege.

a.3 There shall be no pooling, tacking, or advance use of the US\$100 or US\$200 entitlement which is a privilege similar to the entitlement enjoyed by returning residents who shop at existing government-owned tourist duty-free shops.

a.4 The sale of tax and duty-free consumer items in the Secured Area shall only be allowed in duly authorized duty-free shops. Duty-free shops shall be subject to the joint regulations of the Bureau of Customs and the SBMA to insure proper accounting of imports and sales.

a.5 Foreign tourists, balikbayans and returning residents (from abroad) passing through the Secured Area shall be entitled to the same prevailing tax and duty-free privileges they presently enjoy. However, the selling of duty and tax free goods to individuals and returning residents shall be held in abeyance pursuant to E.O. 97-A until a control system shall have been approved by the SBMA and Customs authorities as a condition precedent to a duty free outlet being allowed to operate.

a.6 A control system shall be set up by duty-free shop operators at their own expense. This system shall be approved by the SBMA and Customs authorities before any duty-free outlet is permitted to operate.

In the meantime that control measures have not been defined and set in place, the SBMA shall order duty free shops located within the Secured Area to desist from further selling duty and tax free goods to individuals other than tourist balikbayans and returning residents.

a.7 The SBMA shall install a computerized identification system to insure compliance with the guidelines governing the SSEFPZ particularly the Secured Area.

b. Exemption from the internal revenue taxes, such as gross receipts tax, VAT, ad valorem and excise taxes on their sales of goods and services for which they shall otherwise have been directly liable.

c. Exemption from franchise, common carrier or value added taxes and other percentage taxes on public and service utilities and enterprises within the Secured Area in the Zone.

d. Preferential income tax treatment on income earned/derived from business operations within the Secured Area or from foreign sources. However, in the case of telecommunications service, the income of the enterprise within the Secured Area shall be net of the share of the foreign telecommunications company, and in the case of common carriers by land, air or water, only that portion of the income and expenses for the transport of cargoes and passengers within the Secured Area shall be covered by the preferential income tax treatment and what is not covered shall be subject to the regular corporate income tax.

e. Purchases of raw materials, capital goods and equipment and services by the SBMA and SBF accredited enterprises from enterprises in the Customs Territory shall be considered effectively zero-rated for VAT purposes. However, the VAT registered enterprises in the Customs Territory shall apply for effective zero-rating of their sales of goods and services to SBMA and to SBF enterprises pursuant to Revenue Regulations No. 5-87 as amended.

f. Registered Enterprises may generate income from sources within the Customs Territory of up to Thirty Percent (30%) of its total income from