

**SUBJECT : IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 11256, ALSO KNOWN AS “AN ACT TO STRENGTHEN THE COUNTRY’S GROSS INTERNATIONAL RESERVES, AMENDING FOR THE PURPOSE SECTIONS 32 AND 151 OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER PURPOSES”**

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**SECTION 1. Declaration of Policy.** – Republic Act (“R.A.”) No. 11256 seeks (1) to enable the *Bangko Sentral ng Pilipinas* (“BSP”) to build up the country’s gross international reserves (“GIR”) by buying domestically produced gold from small-scale mining operations using pesos, (2) to ensure that small-scale miners (“SSMs”) will receive a fair price for their gold, and (3) to return to the formal sector the sale of gold from small-scale mining operations. Towards this end, as envisioned under R.A. No. 7076 (the People’s Small-scale Mining Act of 1991) and R.A. No. 11256, all gold produced from small-scale mining operations and sold to the BSP by registered SSMs and accredited traders shall be exempt from taxation.

**SECTION 2. Scope.** – Pursuant to the provisions of Section 5 of R.A. No. 11256, this Implementing Rules and Regulations (“IRR”) is hereby promulgated, to implement the provisions on the exemption from payment of income and excise taxes imposed under the National Internal Revenue Code (“NIRC”) of 1997, as amended, on the sale of gold to BSP by registered SSMs and accredited traders and to provide guidelines for the registration of SSMs and accreditation of traders who will qualify and enjoy the exemptions.

**SECTION 3. Coverage.** – This IRR shall cover sale of gold with the BSP of registered SSMs and accredited traders, as well as sale of gold by SSMs to accredited traders for eventual sale to the BSP. Registration of SSMs and accreditation of traders shall be in accordance with the provisions on registration and accreditation.

**SECTION 4. Definition of Terms** – As used in this IRR, the following terms shall mean or be understood as follows:

- a) **Accredited Traders** – persons and/or entities engaged in the business of buying and selling gold that have complied with the BSP’s gold trader accreditation procedures.
- b) **Department of Environment and Natural Resources Department Administrative Order (“DENR DAO”) No. 2015-03** – the Revised Implementing Rules and Regulations of R.A. No. 7076 (“People’s Small-Scale Mining Act”) which provides, among others, the registration, licensing, declaration of *Minahang Bayan*, and Awarding of Small-Scale Mining Contracts.
- c) **Mines and Geosciences Bureau (“MGB”)** – primary government agency under the DENR responsible for the conservation, management, development, and proper use of



the country's mineral resources including those in reservations and lands of public domains.

- d) **Registered SSMS** – refer to Filipino citizens who have organized themselves as an individual miner or cooperative duly licensed by the MGB to engage in the extraction of minerals or ore-bearing materials from the ground under the terms of a small-scale mining contract, as defined under DENR DAO No. 2015-03, or any subsequent administrative issuance/s of the relevant government agency governing the registration of SSMS.
- e) **Small-Scale Mining Contract** – refers to the co-production, joint venture, or mineral production sharing agreement between the government and a small-scale mining contractor for the small-scale utilization of a plot of mineral inside a Small-Scale Mining Area or *Minahang Bayan*, as defined under DENR DAO No. 2015-03, or any subsequent administrative issuance/s of the relevant government agency governing the registration of SSMS.

**SECTION 5. Tax Exemptions.** – Transactions as provided hereunder **shall be exempt** from taxes, **as follows:**

- a) Income derived from the following sale of gold are excluded in the gross income and shall be exempt from income tax, and consequently from withholding taxes:
  - 1) The sale of gold to the BSP by registered SSMS and accredited traders; and
  - 2) The sale of gold by registered SSMS to accredited traders for eventual sale to the BSP.
- b) Excise tax shall not be levied, assessed and collected on the following:
  - 1) The sale of gold to the BSP by registered SSMS and accredited traders; and
  - 2) The sale of gold by registered SSMS to accredited traders for eventual sale to the BSP.

If an excise tax has been otherwise paid prior to the sale of gold to the BSP, the taxpayer may file a claim for refund or credit with the Commissioner of Internal Revenue for the excise tax paid.

**SECTION 6. Issuance of Tax Identification Number** – The Bureau of Internal Revenue (“BIR”) shall issue a Tax Identification Number (“TIN”) to SSMS and traders to serve as a tag for the income and excise tax exemption of their sale, or eventual sale, of gold to BSP. The details of the sales transaction from registered SSMS and accredited traders shall be reported by the BSP on a monthly basis to the BIR.

**SECTION 7. Registration of SSMS.** – The registration of SSMS shall be governed by Chapter III of DENR DAO No. 2015-03 or by any subsequent administrative issuance/s of the relevant government agency governing the registration of SSMS.



**SECTION 8. Accreditation of Traders.** – The accreditation of traders shall be governed by the guidelines on the accreditation of gold traders, or any subsequent administrative issuance/s governing the accreditation of traders to be issued by the BSP.

For purposes of validating the sale to accredited traders, SSMs shall issue Acknowledgment of Gold Delivery and Sale, stating therein their TIN, to such accredited traders. This, in turn, shall be submitted to BSP by accredited traders upon eventual sale of the gold to the BSP.

In any case, all gold sold to the BSP by accredited traders shall be presumed to have been purchased by said accredited traders from SSMs.

**SECTION 9. Certification** – The BSP shall issue a certification to registered SSMs upon receipt of a certified copy of a valid and effective Small-Scale Mining Contract from the relevant agency, and to accredited traders upon submission of the complete accreditation requirements, respectively, subject to renewal upon expiration. The BSP certification shall be the basis for the tax exemptions and non-withholding/collection of taxes under R.A. No. 11256.

**SECTION 10. Sale of gold to the BSP.** – Registered SSMs and accredited traders shall sell gold to the BSP in accordance with the BSP Gold-Buying Program Guidelines, or any subsequent issuance/s of the BSP governing its purchase of gold.

For purposes of applying the tax exemptions and non-withholding/collection of taxes under R.A. No. 11256, no further proof shall be required by BSP from registered SSMs or accredited traders, other than the documents mentioned under Sections 9 and 12, hereof. In the event that the tax exemption is found by the BIR as not applicable to a BSP transaction with a person or entity purporting to be a registered SSM and/or accredited trader, such person or entity shall be primarily and solely liable for any deficiency taxes that may be assessed by the BIR.

**SECTION 11. Exchange of Information** – The MGB, or any applicable government entity, shall, for purposes of determining the validity of the registration of SSMs, ensure that a list of registered SSMs is readily made available to the BSP.

**SECTION 12. Transitory Provision** – Notwithstanding Sections 7, 8, and 9 of this IRR, SSMs and traders shall be given a period of one (1) year, which may be extended for a period not exceeding three (3) years, from the effectivity of this IRR to comply with the registration and accreditation requirements to avail of the tax exemption under R.A. No. 11256, as implemented under Section 5 of this IRR.

During this transitory period, BSP shall issue a temporary certification to SSMs and traders; in the case of SSMs, upon submission of proof of their pending application for registration with the relevant agency, and in the case of traders, upon submission of proof of their pending application for accreditation with the BSP. SSMs and traders holding such

temporary certification shall enjoy the tax exemptions and non-withholding/collection of taxes, provided, that they comply with the procedure for the sale of gold to BSP under Section 10 of this IRR.

Upon the lapse of the said transitory period, all sale of gold to the BSP by non-registered SSMs and/or non-accredited traders shall be subject to the applicable taxes under the NIRC of 1997, as amended.

**SECTION 13. Repealing Clause.** – All government issuances that are inconsistent with the provisions of this IRR are hereby amended, modified, or repealed accordingly.

**SECTION 14. Effectivity.** – This IRR shall take effect fifteen (15) days following its complete publication in two (2) newspapers of general circulation and from filing of three (3) certified copies in the University of the Philippines Law Center.



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