

Legal FiNeSse

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TWO NEW LAWS PASSED

The Amended "Balikbayan Program Act"

Republic Act No. (RA) 9174 is an amendment of RA 6788, or the "Balikbayan Program Act". The law, as amended, gives the following benefits to Filipino balikbayans and their families: (a) tax-exempt maximum purchase in the amount of US\$1,500.00; (b) a kabuhayan shopping privilege in the form of an additional tax-exemption for the purchase of livelihood tools (which refers to all instruments used by a person in the practice of his or her trade, vocation, or profession) in the maximum amount of US\$2,000.00; (c) a travel tax exemption; and (d) visa-free entry to the Philippines for a period of one (1) year for foreign passport holders, with the exception of restricted nationals.

The tax-exempt purchases, including the kabuhayan

shopping privilege, can be availed of only at all government-owned and controlled duty-free shops and within fifteen (15) calendar days from the date of arrival. The period of availment is extended to thirty (30) calendar days from the date of arrival during the Christmas season or from November 15 to January 15. Senior citizens and handicapped balikbayans are allowed to enjoy the privilege within one (1) year from the date of arriving in the Philippines.

The Chainsaw Act

Republic Act 9175 aims to regulate the ownership, possession, sale, importation, and use of chain saws to prevent them from being used in illegal logging and unauthorized clearing of forests.

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Pending legislation...

The Reproductive Health Care Bill

House Bill No. (HB) 4110 entitled "Establishing a Reproductive Health Care Act, Strengthening its Implementing Structures, Appropriating Funds therefor and for Other Purposes" recently passed its first reading in Congress. The bill seeks to improve the health and well-being of Filipinos by upholding their reproductive rights, which include their right to reproductive self-determination, and access to reproductive health care. This bill pays special attention to women and girl-children who are vulnerable to a host of health complications including death or injury from childbirth, unwanted pregnancy and sexually transmissible infections.

HB 4110 promotes the use of contraceptives, by eliminating restrictions thereon, and providing access to various contraceptive methods while regulating their quality. Moreover, the bill requires the integration of sexual and reproductive health and rights as part of the curriculum of public and private schools at all levels, including non-formal and indigenous learning systems.

The Absentee Voting Bill

Senate Bill No. 2104, entitled "An Act Providing for a System of Overseas Absentee Voting By Qualified Citizens of the Philippines Abroad, Appropriating Funds Therefor, and for Other Purposes," was prepared by the Committee on Constitutional Amendments, Revision of Codes and Laws, Committee on Foreign Relations, and the Committee on Finance, and authored by their members. The Act shall be known as "The Overseas Absentee Voters' Act of 2002."

The Act does not require absentee voting, but merely provides for the procedure to be followed by qualified voters abroad in applying for registration, and thereafter voting in the elections, including the May 2004 elections. The law likewise disqualifies certain types of individuals from voting under the Act. The Act requires a separate registry for overseas absentee voters which is created under the law. Casting and submission of ballots will be done by sending the duly accomplished ballots to the corresponding Philippine diplomatic or consular office stationed in the country where the voter sojourns. The proposed bill is yet to be calendared for discussion and debate by the Senate.

FNS TRANSFERS TO NEW ADDRESS

On its tenth year of service, Fortun Narvasa & Salazar has transferred to its new home at the 23rd floor of the Multinational Bancorporation Centre Building, 6805 Ayala Avenue, Makati City. The new office offers a modern and contiguous location for all units of the firm and generous spaces to comfortably accommodate all its clients. Like its old home, the lay-out of the Firm's new office highlights a wide collection of artworks, which includes no less than the critically acclaimed Orlina sculptures.

The Multinational Bancorporation Centre Building is right beside the LKG Building and may be accessed either through Ayala Avenue or Valero Street, Salcedo Village. The move which culminated on January 6, 2003 was hassle-free. The blessing and inauguration of the Firm's new office will be announced at a later date.

F N S News

The FNS Christmas Party

On December 13, 2002, FNS held its 9th Christmas Party at the Metropolitan Club, Rockwell Center. The Firm commemorated its hosting of the Global Law Regional Conference earlier in the year with this year's theme "Merry Christmas Around the Globe". Thus, the entire Firm was grouped into five continents, namely, Africa, Asia, North and South America, Europe and Australia with the individual members dressed in the national costumes of the countries they represent. Attorney Gregorio Narvasa II's Asia group won the overall championship with the best accumulated score after four events, the Dance competition, Christmas card-making, Group costume and the Amazing mind race. The title of Mr. and Ms. World went to Attorney Sigfrid Fortun and Mitch Romero for their daring and captivating costumes. To top the night off, the partners raffled of several 3-day, 2-night trips to Boracay which got everybody on their feet and in the mood for dancing.

The Firm reaches out to underprivileged children

On December 17, 2002, the Firm held its yearly Yuletide Community Outreach Program with the street-children of Makati as this year's beneficiaries. Held at the DSWD center along J.P. Rizal Street in Guadalupe, members of the Firm played the part of Santa bringing good tidings and cheer to the underprivileged children of Makati.

After a short but lively program presented by the children, the Firm's staff joined in the singing and the dancing. Aside

from a hearty lunch shared by the children and their big brothers and sisters from the Firm, lawyers and staff gave the kids their respective presents aside from much appreciated gift packs to bring home with them. The staff of the DSWD gave their heartfelt thanks on behalf of the children and expressed their admiration that a law firm would take time out to reach out to their wards. Attorney Sigfrid Fortun spoke for everyone when he thanked the social workers and the children for the opportunity to give something back to the community. As part of its commitment to the underprivileged, the Firm regularly extends much needed legal services to children who suffered abuse and maltreatment. This service is much appreciated by the social workers who lamented that public prosecutors were often overwhelmed by the volume of child abuse cases.

The Firm welcomes Attorneys Coronado and Loste

On 1 October 2002, the Firm welcomed its newest member of the family, Attorney Manolito B. Coronado. Lito, to his friends, is a graduate of the Arellano Law School. He passed the Philippine Bar in 2001 and is now working for the Firm's Cavite office. He is a member of the San Beda College faculty, having taught in both the highschool and college levels, and is a published writer of a textbook entitled "Making Sense of World History".

Already a devoted family man, Lito proved to be a "game" colleague as well since he sportingly agreed to become the main course for the hungry natives of the African group in last year's Christmas party. The Firm warmly wel-

Tax Breaks

Tax payments through Authorized Agent Banks

Revenue Regulation No. 16-2002 of the Bureau of Internal Revenue (BIR) provides the mode of and the procedure for the payment of internal revenue taxes through Authorized Agent Banks (AABs).

Aside from the electronic payment system currently used by some taxpayers in paying their taxes, taxpayers may pay their tax liabilities through any of the following modes:

a) "Over-the-counter cash payment" - the maximum amount allowed per tax payment shall not exceed ten thousand pesos (P10,000.00);

b) "Bank debit system" - a taxpayer, through a bank debit memo/advice, authorizes withdrawals from an existing bank accounts for payment of tax liabilities. This mode is allowed only if the taxpayer has an account with the AAB branch where he intends to pay and that the said branch is within the jurisdiction of the BIR Revenue District Office (RDO) / Large Taxpayers District Office (LTDO) where the tax payment is due and payable; and

c) "Checks" which refers to a bill of exchange or order instrument drawn on a bank payable on demand.

It must be noted that some checks are not acceptable as payment for internal revenue taxes. These include accommodation checks, second endorsed checks, stale checks, post-dated checks, unsigned checks, and checks with alterations or erasures. The AABs accepting the checks must see to it that the check covers only one return period.

Taxpayers need not enroll with any AAB where they intend to pay. They may directly file tax returns/payment forms and pay internal revenue taxes with any AAB within the jurisdiction of the appropriate BIR office (RDO, LTDO, or Large Taxpayers Service, etc., whichever is applicable) where they are required to pay their taxes.

BIR Revenue Regulations 1-2003 imposes VAT on professionals, etc.

On 2 January 2003, the Bureau of Internal Revenue issued Revenue Regulations 1-2003 "Implementing Section 5 of Republic Act No. 8424, Otherwise Known as the Tax Re-

form Act of 1997, and Other Pertinent Provisions of the National Internal Revenue Code of 1997, as last Amended by Republic Act No. 9010, Imposing Value-Added Tax (VAT) on Sale of Services by Persons Engaged in the Practice of Profession or Calling and Professional Services Rendered by General Professional Partnerships; Services Rendered by Actors, Actresses, Talents, Singers and Emcees; Radio and Television Broadcasters and Choreographers; Musical, Radio, Movie, Television and Stage Directors; and Professional Athletes, as Well as Services Rendered by Customs, Real Estate, Stock, Immigration and Commercial Brokers, beginning January 1, 2003."

Individual professional practitioners with aggregate gross receipts or expected aggregate gross receipts, for new taxpayers, in all taxable lines of activity exceeding P550,000 for any 12-month period are required to register as VAT-taxpayers. As such, they are required to file the monthly VAT Declaration and the quarterly VAT Return. Revenue Regulations 3-2003 (23 January 2003) requires VAT taxpayers to register as such without penalty not later than 28 February 2003. Correspondingly, the VAT Declaration covering the transactions for January 2003 may be filed not later than the deadline for filing of the VAT declaration covering the transactions in February 2003 (March 20, 2003 for regular VAT taxfilers and the prescribed date under the staggered filing system for those using the Electronic Filing and Payment System (EFPS), without any penalty).

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The Firm welcomes Attorneys Coronado and Loste

comes Attorney Lito into its fold and we hope to see more of him in future Firm gatherings and not necessarily as part of the menu.

The Firm also welcomed back Attorney Bayani "Bay" Loste who returned from a well-deserved nine-month leave. While on leave, Bay took care of his two beautiful children; Gabriel David, age 5, and Alexa Jean, who was born on 10 November 2001. He also co-managed, with his wife Amy, an art gallery, Gallery Nine, which opened its second branch at the SM Megamall in February 2002.

Attorney Bay became a senior associate in 2002 in recognition of his invaluable contribution to the Firm and his hard work and perseverance in servicing its clients. Bay, thoroughly refreshed from his leave, is in the thick of the Firm's more challenging cases this early. Along with Lito of the Cavite office, Bay will surely complement the Firm's growing roster of lawyers who will certainly benefit from his experience and leadership. Welcome back, Bay!

SEC Watch

SEC Guidelines on the Imposition of Fines or Penalties for Non-Compliance with Reportorial Requirements

The SEC has imposed a new scale of penalties on delinquent corporations for failure to file its General Information Sheet (GIS), Affidavit of Non-Holding of Annual Meeting, Affidavit of Non-Operation, Notice of Postponement of Annual Stockholders'/Members' Meeting, Financial Statements (FS), and to register its Stock and Transfer Book (STB) or Membership Book, and the late filing of by-laws, as follows:

I. Non-Filing

Stock Corporations

Retained Earnings from Latest Audited Financial Statement Fine Per Report/Per Year

| | | |
|----------------------|----------------|-------------|
| UP to | P100,000.00 | P100,000.00 |
| P100,001.00 to | P500,000.00 | P3,000.00 |
| P500,001.00 to | P5,000,000.00 | P5,000.00 |
| P5,000,001.00 to | P10,000,000.00 | P7,000.00 |
| Above P10,000,000.00 | | P10,000.00 |

Stock Corporations with deficit shall be assessed P500.00 per report while those with capital deficiency shall be assessed P250.00 per report.

Non-Stock Corporations

Fund Balance/Equity Fine Per Report/Per Year
(Based on Latest Financial Statements)

| | | |
|-----------------------|-----------------|-----------|
| Up to | P100,000.00 | P 500.00 |
| P100,001.00 to | P500,000.00 | P1,500.00 |
| P500,001.00 to | P10,000,000.00 | P2,500.00 |
| P10,000,001.00 to | P100,000,000.00 | P3,500.00 |
| Above P100,000,000.00 | | P5,000.00 |

Non-Stock Corporations with negative fund balance shall be assessed P500.00 per report.

II. Late Filing (or the filing of the required reports beyond the period allowed, but within one year in which the said reports are required to be filed counted from the date set for filing)

- a. GIS and FS -50% of the above scale of penalties
- b) Notice of Postponement of Annual Stockholders'/Members' Meeting -P300.00
- c) Affidavit of Non-Holding of Annual Stockholders'/Members' Meeting -P300.00
- d) By-Laws:
Stock Corporations -P1,000.00
Non-Stock Corporations -P500.00
- e) Corporate books
Stock and Transfer Book (stock corporation) -P1,000.00
Membership Book (non-stock corporation) -P500.00

III. Non-Filing Due to Non-Operation

Stock corporation - P400.00 per year of non-operation
Non-Stock corporation - P200.00 per year of non-operation.

IV. Subsequent Violation

- 2nd violation - assessed penalty plus 10% surcharge
- 3rd violation - assessed penalty plus 155 surcharge
- 4th violation - suspension or revocation of the certificate of registration

These Guidelines took effect on July 31, 2002 and are not applicable to listed corporations and those with SEC-issued secondary licenses.

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The Chainsaw Act

Under the law, chain saws shall only be sold and/or imported by manufacturers, dealers, and/or private owners who are duly authorized by the Department of Environment and Natural Resources (DENR). The DENR is authorized to issue permits to possess and/or use a chain saw for the felling and/or cutting of trees, timber, and other forest or agro-forest products to any applicant who: (a) has a subsisting timber license agreement, production sharing agreement, or similar agreements, or a private land timber permit; (b) is an orchard and fruit tree farmer; (c) is an industrial tree farmer; (d) is a licensed wood processor and the chain saw shall be used for the cutting of timber that has been legally sold to said applicant; or (e) shall use the chain saw for a legal purpose.

The law provides for specific penalties for the following offenses: (a) selling, purchasing, re-selling, distributing or possessing a chain saw without a proper permit; (b) unlawful importation or manufacturing of chain saw; (c) tampering of engine serial number; and (d) **unlawful use of chain saw.**