

**PRESCRIBING AMENDMENTS TO
DEPARTMENT CIRCULAR NO. DC2009-05-0008 TITLED,
RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 9513,
OTHERWISE KNOWN AS THE “RENEWABLE ENERGY ACT OF 2008”**

WHEREAS, Section 2 of Republic Act (RA) No. 9513, otherwise known as the “Renewable Energy Act of 2008” (RE Act) directs the State to encourage and accelerate the exploration, development and utilization of renewable energy (RE) resources such as but not limited to, biomass, solar, wind, hydropower, geothermal, and ocean energy sources, and including hybrid systems;

WHEREAS, under Section 5 of the RE Act, the Department of Energy (DOE) is mandated to implement the provisions of the Act;

WHEREAS, Chapter VII of the RE Act provides incentives for RE projects, activities, and its commercialization, and establishes the framework for availment thereof by RE developers;

WHEREAS, pursuant to Section 33 of the RE Act, the DOE issued Department Circular (DC) No. DC2009-05-0008, otherwise known as the “Rules and Regulations Implementing Republic Act No. 9513” (RE Act IRR);

WHEREAS, there is a need to streamline and rationalize the conditions to avail of the RE Act incentives provided under the RE Act IRR;

NOW, THEREFORE, in consideration of the foregoing premises, the DOE hereby issues the following amendments to the RE Act IRR:

Section 1. *Definition of Terms.*— As used in the Act and this IRR, the terms below shall be defined as follows:

- (a) “Certificate of Authority” or “COA” refers to a pre-RE Contract certificate signed by the DOE Secretary authorizing an RE Developer to procure the necessary permits and tenurial instruments for the exploration, development, construction and installation, and commercial operation of the RE Project and conduct reconnaissance and other activities needed for pre-feasibility studies;
- (b) “Energy Storage System” or “ESS” refers to a facility capable of absorbing energy directly from the Grid or Distribution System, or from an RE Plant or from a Conventional Plant connected to the Grid or Distribution System and storing it for a time period, and injecting stored energy when prompted, needed to ensure reliability and balanced power system. ESS technologies, but shall not be limited to, Battery Energy Storage System (BESS), Compressed Air Energy Storage (CAES), Flywheel Energy Storage (FES), and Pumped-Storage Hydropower;
- (c) “Integrated RE Plant and ESS” or “IRESS” refers to a combination of RE Plant/s and ESS that is solely charged by the RE Plant/s;
- (d) “Emerging RE Technologies” refers to innovative technologies that harness RE resources which are typically in the early stages of development or adoption and often offer novel solutions to enhance efficiency, reduce costs, promote sustainability, and address specific challenges within the RE sector such as, but not limited to: advanced solar photovoltaics (PV) with higher efficiency and lower costs, next-generation wind turbines designed for improved performance and reliability, tidal and wave energy converters, innovative biomass conversion processes, advanced energy storage technologies such as flow batteries and green hydrogen storage systems, bioenergy solutions, and Enhanced Geothermal Systems (EGS), which enables the extraction of

geothermal energy from resources that were previously considered uneconomical or inaccessible;

Section 2. Section 13 of the RE Act IRR, as amended, is hereby further amended to read as follows:

SEC. 13. Fiscal Incentives for Renewable Energy Projects and Activities

DOE-certified existing and new RE Developers of RE facilities, IRESS and Emerging RE Technologies, including Hybrid Systems, in proportion to and to the extent of the RE component, for both Power and Non-Power Applications, shall be entitled to the following incentives:

A. *Income Tax Holiday (ITH)*

(1) *Period of Availment* – The duly registered RE Developer shall be fully exempt from income taxes levied by the National Government for the period as follows:

(a) Existing RE Projects – Seven (7) years from the start of commercial operations.

(b) All RE Developers that acquire, operate and/or administer existing RE facilities that were or have been in commercial operation for more than seven (7) years, upon the effectivity of the Act, shall not be entitled to ITH, except for any additional investment: Provided, That the corresponding RE Contract was assigned to the RE Developer.

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(2) *Entitlement for New and Additional Investments subject to prior approval by the DOE*

(a) New investment – RE Developers undertaking discovery and development of new RE Resource distinct from their registered operations may qualify as new projects, subject to the issuance of a corresponding RE Contract and setting up of separate books of accounts. In such cases, a fresh package of ITH from the start of commercial operations shall apply.

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B. *Exemption from Duties on RE Machinery, Equipment and Materials*

Within the first ten (10) years from the issuance of a Certificate of Registration to an RE Developer, the importation of machinery and equipment, and materials and parts thereof, including control and communication equipment, shall be exempt from tariff duties:

(1) *Conditions for Duty-Free Importation* — An RE Developer may import machinery and equipment, and materials and parts thereof exempt from the payment of any and all tariff duties thereon subject to the following conditions:

(a) The machinery and equipment are directly and actually needed and will be used exclusively in the RE facilities for the transformation of and delivery of energy to the point of use;

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(e) Endorsement of the DOE is obtained before the importation.

Section 3. Section 18 of the RE Act IRR as amended, is hereby further amended to read as follows:

SEC. 18. Conditions for Availment of Incentives and Other Privileges

A. *Registration/Accreditation with the DOE*

For purposes of entitlement to the incentives and privileges under the Act, existing and new RE Developers, and manufacturers, fabricators, and suppliers of locally-produced RE shall register with the DOE, through the Renewable Energy Management Bureau (REMB). The following certifications shall be issued:

(1) *DOE Certificate of Registration* — Issued to an RE Developer holding a valid RE Service/Operating Contract.

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The DOE Certificate of Registration shall be issued immediately upon award of an RE Service/Operating Contract covering an existing or new RE project or upon approval of additional investment; Provided, That the Certificate of Registration may, at the option of the RE Developer, be issued upon receipt of proof of financial closing.

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B. *Registration with the Board of Investments*

The RE sector is hereby declared a priority investment sector that will regularly form part of the country's Investment Priority Plan (IPP), unless declared otherwise by law.

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The registration with the BOI shall be carried out through an agreement and an administrative arrangement between the BOI and the DOE, with the end-view of facilitating the registration of qualified RE facilities. The applications for registration and/or availment of incentives under the Act shall be favorably acted upon by the BOI, on the basis of the certification issued by the DOE; Provided, That such certification is issued in accordance with the agreement between the DOE and BOI. For this purpose, the DOE and BOI shall review and/or revise, as necessary, their agreement and administrative arrangement within thirty (30) days from the effectivity of this Circular.

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C. *Certificate of Endorsement by the DOE*

RE Developers, and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall be qualified to avail of the incentives provided for in the RE Act only after securing the following:

(1) ITH - Certificate of Registration and RE Developer's Certificate of Compliance or its equivalent duly issued by the ERC;

(2) Duty-free importation –

- (a) RE project as proposed - Certificate of Endorsement from the DOE, through the REMB, on a per transaction basis;
 - (b) New investment – RE Contract, Certificate of Registration for the new RE project and Certificate of Endorsement from the DOE, through the REMB, on a per transaction basis;
 - (c) Additional investment – Certificate of Registration for the Additional Investment and Certificate of Endorsement from the DOE, through the REMB, on a per transaction basis.
- (3) Special Realty Tax Rates on Equipment and Machinery – Certification on RE equipment and machinery comprising the RE facility;

No certification shall be required to avail of the other incentives and benefits under the Act but the RE Developer shall comply with the requirements of the concerned government agencies.

The DOE, through the REMB, shall issue said certification within fifteen (15) days upon request of the RE Developer or manufacturer, fabricator, and supplier of locally-produced RE equipment: Provided, That the request is filed with all documents required under prevailing regulations of the DOE: Provided, further, That the certification issued by the DOE shall be without prejudice to any further requirements that may be imposed by the government agencies tasked with the administration of the fiscal incentives mentioned under Rule 5 of this IRR.

The DOE may recall, withdraw or revoke any certification issued hereunder if:

- (1) The RE Service/Operating Contract covering the registered RE project is terminated with finality; or
- (2) The RE Developer commits any of the acts prohibited under the Act and this IRR.

Section 4. Separability Clause. If any provision of this Circular is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and existing.

Section 5. Repealing Clause. Other issuances inconsistent with the provisions of this Circular are hereby repealed, amended or modified accordingly.

Section 6. Effectivity. This Circular shall take effect fifteen (15) days following its publication in two (2) newspapers of general circulation and filing with the University of the Philippines Law Center – Office of the National Administrative Register.

RAPHAEL P.M. LOTILLA
Secretary

Issued on _____ at Energy Center, Bonifacio Global City, Taguig City.