

**DEPARTMENT CIRCULAR NO. \_\_\_\_\_**

**AMENDING SECTIONS 13 (E) and 18(C) OF DEPARTMENT CIRCULAR NO.  
DC2009-05-0008 ENTITLED RULES AND REGULATIONS IMPLEMENTING  
REPUBLIC ACT NO. 9513**

**WHEREAS**, Section 2(b) of Republic Act No. 9513, Renewable Energy Act of 2008 (the “RE Law”) provides the State policy to increase the development and utilization of renewable energy by promoting its efficient and cost-effective commercial applications through the provisions of fiscal and nonfiscal incentives;

**WHEREAS**, pursuant to Section 33 of the RE Law, the Department of Energy (“DOE”) promulgated DC No. 2009-05-0008, the Rules and Regulations Implementing Republic Act No. 9513 (the “RE Law IRR”) on 25 May 2009;

**WHEREAS**, consistent with Section 15 (e) of the RE Law, Section 13 of the RE Law IRR provides that the requisite for the entitlement of the ten percent (10%) corporate income tax is the registration of the RE Developer with the DOE and the issuance of the DOE Certificate of Registration;

**WHEREAS**, Section 13 (E) of the RE Law IRR, however, appears to include an additional requirement not contemplated in the law as the IRR refers to an appropriate mechanism to be developed by the Energy Regulatory Commission (“ERC”), in coordination with the DOE, to implement the power rate reduction;

**WHEREAS**, there are already existing mechanisms, particularly in the rate evaluation processes adopted by the ERC in the review of power supply agreements and in the setting of the feed in-tariffs, that meet the requirements of the RE Law in ensuring that the rates passed on to consumers are least cost;

**WHEREAS**, in implementing Section 26 of the RE Law, Section 18 (C) of the RE Law IRR requires RE Developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment to secure a “*Certificate of Endorsement from the DOE, through the Renewable Energy Management Bureau (“REMB”), on a per transaction basis*” to avail of the incentives provided under the RE Law;

**WHEREAS**, in actual practice however, DOE only issues the Certificate of Endorsement on a per importation basis for importation of RE machinery, equipment and materials and not for local purchases of RE machinery, equipment and materials. On the other hand,

the DOE issues however a Certificate of Registration on a one-time per project basis for purposes of availing all incentives;

**WHEREAS**, RE Developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment are having difficulty in availing fiscal incentives because other agencies are requiring additional documents that are not issued by the DOE;

**WHEREAS**, since the enactment of the RE Law, Republic Act No. 11032 or the Ease of Doing Business Act and Republic Act No. 11234 or the Energy Virtual One Stop Shop or EVOSS Law were passed mandating the streamlining of government processes and eliminating red tape in government transactions to promote the ease of doing business; and

**WHEREAS**, cognizant of the need to address implementation gaps, promote efficiency in government processes, and ensure that fiscal incentives are properly availed of, the DOE decided to amend Sections 13 (E) and 18 (C) of the RE Law IRR.

**NOW THEREFORE**, for and in consideration of the foregoing, the DOE hereby issues, adopts and promulgates the following amendments to the RE Law IRR:

**Section 1. AMENDMENT TO SECTION 13 (E) OF THE RE LAW IRR.** Section 13(E) of DC No. 2009-05-0008 shall be read as follows:

*E. Corporate Tax Rate*

ALL REGISTERED RE DEVELOPERS SHALL, SOLELY ON THE BASIS OF A VALID AND SUBSISTING DOE RENEWABLE ENERGY SERVICE CONTRACT AND CERTIFICATE OF REGISTRATION, AUTOMATICALLY BE ENTITLED TO ITH AND CORPORATE INCOME TAX OF TEN PERCENT (10%), INCLUDING OTHER INCENTIVES UNDER THE ACT. After availment of the ITH, all Registered RE Developers shall pay a corporate tax of ten percent (10%) on their net taxable income as defined in the National Internal Revenue Code (NIRC) of 1997, as amended.

*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 AUTOMATICALLY pay a corporate tax rate of 10% on their net taxable income, upon registration with the DOE.*

**Section 2. AMENDMENT TO SECTION 18 (C) OF THE RE LAW IRR.** Section 18(C) of DC No. 2009-05-0008 shall be read as follows:

*C. No Separate Endorsement from the DOE*

*RE Developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall be AUTOMATICALLY qualified to avail of the incentives provided for in the Act, other than the incentive of duty-free importation of qualified machinery, equipment, materials, parts and components, after securing a Certificate of Registration from the DOE.*

*In order to avail of the incentive of duty-free importation of qualified machinery, equipment, materials, parts and components, RE Developers that import RE equipment, equipment, materials, parts and components shall secure a Certificate of Endorsement from the DOE, through the REMB, on a per importation basis.*

*Consistent with the mandate under the Republic Act No. 11032 and Republic Act No. 11234, the DOE may issue guidelines to further streamline the procedures and requirements for the availment of incentives for RE Developers or manufacturers, fabricators, and suppliers of locally-produced RE equipment in good standing, as determined based on specific criteria, such as, but not limited to:*

- (1) **Compliance with Obligations** – The RE Developers or manufacturers, fabricators, and suppliers of locally-produced RE equipment shall observe and abide by the provisions of the Act, this IRR, the applicable provisions of existing Philippine laws, and take adequate measures to ensure that its obligations thereunder as well as those of its officers are faithfully discharged;*
- (2) **Compliance with Directives** – The RE Developer or manufacturers, fabricators, and suppliers of locally-produced RE equipment shall comply with the directives and circulars which the DOE may issue from time to time in pursuance of its powers under the Act;*
- (3) **Compliance with Pre-Registration/Registration Conditions** – The RE Developers or manufacturers, fabricators, and suppliers of locally-produced RE equipment shall comply with all the pre-registration and registration conditions as required by the DOE;*
- (4) **Compliance with Reportorial Requirements** – An RE Developer shall maintain distinct and separate books of accounts for its operations inside the RE facilities and shall submit technical, financial and other operational reports/documents to DOE on or before their respective due dates; and*
- (5) **Remittance of Government Shares and Payment of Applicable Financial Obligations** – An RE Developer shall observe timely remittance of Government Share, and payment of applicable fees and other financial obligations to the DOE.*

**Section 2. 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 3. REPEALING CLAUSE.** All issuances inconsistent with the provisions of this Circular are hereby repealed or amended accordingly.

**Section 4. EFFECTIVITY.** This Circular shall take effect fifteen (15) days following its publication in two (2) newspapers of general circulation and submission to the University of the Philippines Law Center – Office of National Administrative Register (UPLC-ONAR).

**ALFONSO G. CUSI**  
Secretary

Issued on \_\_\_\_\_ at Energy Center, Bonifacio Global City, Taguig City.